

In the Matter Of:

XL SPECIALTY INSURANCE Co.

vs

JEANNEAU AMERICA, INC.

MICHAEL PORT

March 13, 2019

epiq
court reporting solutions

MICHAEL PORT - 03/13/2019

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MARYLAND
3 -----:
4 XL SPECIALTY INSURANCE, CO., :
5 Plaintiff, :
6 vs. : Civil Action No.:
7 JEANNEAU AMERICA, INC., : 1:18-CV-2703-CCB
8 Defendant. :
9 -----:

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12 Deposition of MICHAEL A. PORT

13 Annapolis, Maryland

14 Wednesday, March 13, 2019

15 11:00 a.m.

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23 Job No. NY-209253

24 Pages 1 - 98

25 Reported by: Robert M. Jakupciak, RPR

MICHAEL PORT - 03/13/2019

Page 2

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Deposition of MICHAEL A. PORT, held at the
offices of:

4

Hartman Attorneys at Law

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116 Defense Highway, Suite 300

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Annapolis, Maryland 21401

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Pursuant to Notice, before Robert Michael
Jakupciak, RPR, a Notary Public in and for the State
of Maryland, when were present on behalf of the
respective parties:

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1 A P P E A R A N C E S

2 On behalf of the Plaintiff:

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MICHAEL PORT - 03/13/2019

Page 4

1 C O N T E N T S

2 THE WITNESS: MICHAEL A. PORT

3 EXAMINATION PAGE NO.

4 By Mr. O'Donovan 5

5 By Mr. Hartman 63

6 By Mr. Schierloh 80

7 By Mr. O'Donovan 93

8 By Mr. Schierloh 94

9

10

11 E X H I B I T S

12 PORT EXHIBIT NUMBER PAGE NO.

13 1 Subpeona 6

14 2 Purchase Agreement 52

15 3 CYC Service Agreement 52

16 4 Email Exchange Dated 57

17 7/17/16-7/18/16

18 5 Email Dated 7/16/16 59

19 6 Personal Property Claim 81

20 Itemization

21 7 Watercraft Marine 83

22 Insurance Policy

23 Declarations Page

24

25 (Exhibits attached to transcript.)

MICHAEL PORT - 03/13/2019

Page 5

1 P R O C E E D I N G S

2 Whereupon,

3 MICHAEL A. PORT,

4 called as a witness, and having been first duly

5 sworn, was examined and testified as follows:

6 EXAMINATION BY COUNSEL FOR DEFENDANT

7 BY MR. O'DONOVAN:

8 Q Good morning, Mr. Port. We were
9 introduced. My name is Kevin O'Donovan and I
10 represent Chesapeake Yacht Center. CYC I probably
11 will refer to them as today. I will be asking you a
12 series of questions today. A couple of things.
13 Have you had your deposition taken before?

14 A Not, not in this capacity. No.

15 Q But you're basically familiar with having
16 had a deposition and the back and forth?

17 A Yes.

18 Q So as the court reporter mentioned
19 earlier, I'll be asking you a series of questions.
20 Please make sure that you wait until I am
21 finished --

22 A Uh-huh.

23 Q -- and then answer the question verbally.
24 No nods of the heads, uh-huhs. Those don't work for
25 the court reporter. All right?

1 A Yes.

2 Q If you have trouble, you don't understand
3 one of my questions, please tell me and I'll try and
4 rephrase it. Otherwise, I'm going to assume that
5 you did understand it, and that you're answering it
6 to the best of your ability. All right?

7 A Yes.

8 Q Okay. If you need to take a break at any
9 time, this is not meant to be a torture test. Just
10 please tell us. Not when I've asked a question and
11 before you've answered, that's not the time to take
12 a break. But any other time if you need to take a
13 break, please tell us and we'll go off the record
14 and take a break. All right?

15 A Yes.

16 Q Okay. Some real basics. I'm going to
17 mark as CYC Exhibit 1 I guess the subpoena that we
18 served on you, just so we have it on the record.

19 (Port Exhibit Number 1
20 was marked for identification.)

21 BY MR. O'DONOVAN:

22 Q And Mr. Port, I'm showing you what we have
23 marked as Port Exhibit 1. And I believe you were
24 served with a subpoena similar to that?

25 A Correct.

1 Q Okay. And there was a witness fee that
2 accompanied it; right? A check for a witness fee?

3 A Correct.

4 Q Okay. All right. Real basics. Where do
5 you live, Mr. Port?

6 A In New Hope, Pennsylvania.

7 Q You are currently married I believe?

8 A Correct.

9 Q Okay. I have seen reference to a woman by
10 the name of Petra Kolber. Can you explain who she
11 is so we don't have to spend too much time on her?

12 A Sure. So Petra Kolber was a woman I lived
13 with a number of years ago.

14 Q Okay.

15 A Then she moved out and I met someone else
16 and got married.

17 Q And as you know, the deposition that is
18 being taken today is about the fire aboard your
19 boat, the Home Port; correct?

20 A Correct.

21 Q Okay. And were you the owner of the Home
22 Port or did you own it with somebody else?

23 A My wife, Amy, is also on the paid title.

24 Q Okay. Very briefly, can you run through
25 your education? I don't care about high school.

1 College?

2 A Sure. I went to Tulane University.

3 Q Okay.

4 A Then I got a master's degree from New York
5 University, NYU.

6 Q What was your degree at Tulane?

7 A I majored in theater, minored in
8 psychology, and then my master's is in acting at
9 NYU.

10 Q Okay. I'm a Tulane grad as well. I was
11 just curious.

12 A Oh, you are? Are you really? No kidding?

13 MR. HARTMAN: When did you graduate?

14 THE WITNESS: I was there in '89-'93.

15 MR. HARTMAN: You're a young'in.

16 THE WITNESS: Too young. I'll bet
17 afterwards we'll share some stories.

18 MR. O'DONOVAN: Sorry, Chris. We didn't
19 mean to leave you out.

20 MR. SCHIERLOH: I wanted to go there as
21 well.

22 BY MR. O'DONOVAN:

23 Q And, Mr. Port, just briefly, your current
24 employment?

25 A I own a company called Heroic Public

1 Speaking, and we provide training for organizations
2 on communications and public speaking.

3 Q Okay. And your wife is employed with that
4 same company; right?

5 A She's my business partner. Correct.

6 Q All right. Turning from the mundane.
7 Your boat owning experience, let's talk about that
8 for a little while. Prior to the Home Port, and
9 just so we're clear, when I'm talking about the Home
10 Port today, I want to talk about the boat, the Home
11 Port that burned on August 31. I understand you
12 have a new boat which is also called the Home Port.
13 Unless I refer to --

14 A Right. We call it the Third. Home Port,
15 the Third.

16 Q Okay. So lets -- when I refer to the Home
17 Port, can we agree we're talking about the one that
18 burned? Okay?

19 A Agreed.

20 Q All right. Prior to the Home Port had you
21 owned boats before?

22 A Yes.

23 Q Okay. Can you give me a brief rundown of
24 the types of boats you owned before that?

25 A Okay. Prior to the Home Port that burnt

1 down, we had a Sea Ray; it was a 420.

2 Q Okay.

3 A It was a 45 and a-half-foot vessel and it
4 was built in 2004. And I also had prior to that a
5 27-foot Century, twin outboard --

6 Q Okay.

7 A -- vessel. And then a number of smaller
8 tenders with, you know, smaller horsepower engines.

9 Q Okay. And then as I understand it from
10 looking at some of the documents, when you bought
11 the Home Port, you sold or you traded in the 42-foot
12 boat; right?

13 A Correct.

14 Q The 420 boat?

15 A Yeah.

16 Q Okay. When you went through the boats,
17 were any of the prior boats that you had owned
18 Jeanneau boats?

19 A No.

20 Q Okay. So the Home Port was the first
21 Jeanneau boat you've purchased?

22 A Correct.

23 Q Have you ever had any Coast Guard training
24 or any other formal training on boat operation?

25 A Yes.

1 Q Okay.

2 A So I took and passed the U.S. Coast Guard
3 captain's license, the OUPV Six-Pack. And I did
4 that six years ago.

5 Q Okay. So 2013 approx --

6 A Approximately.

7 Q Okay.

8 A After I passed that test, I also took the
9 100-ton master's upgrade. I didn't submit for that
10 endorsement for two reasons. One, I didn't have the
11 hours on a 100-ton vessel, I just wanted to do it
12 for the education. And two, I have no intention of
13 being a commercial captain.

14 Q You just wanted the education, not
15 necessarily the actually license?

16 A Right. I also took a course from Boat
17 U.S. way before that in boat handling. I took also
18 the towing endorsement, and I did the Annapolis
19 School of Seamanship.

20 I also took a weekend course in diesel
21 engine maintenance. I took a weekend course in
22 electronic, in marine electrical systems.

23 Q Okay.

24 A I took another weekend course in marine
25 radar and navigation systems. I took all of those

1 at the Annapolis School of Seamanship.

2 Q Okay. As a general matter, when you owned
3 boats, did you work on them yourself?

4 A Huh-uh. No.

5 Q Okay.

6 A I always had -- I wanted to know enough to
7 be able to troubleshoot issues while underway, but I
8 would never actually do any work on the boat that a
9 professional should do.

10 Q Okay. Have you had fires on board any of
11 your other boats?

12 A No.

13 Q Okay. And have any of your other boats
14 been considered a total loss?

15 A No.

16 Q All right. A couple of brief sort of
17 introductory things. Before today's deposition have
18 you met with Mr. Schierloh, Chris?

19 A We had a meal together this morning.

20 Q Okay.

21 A And we talked on the phone a few times.

22 Q Okay. And I don't want to get into what
23 you've discussed with him.

24 Have you provided him with any documents
25 that you had; emails, photographs, anything like

1 that that relate to the Home Port?

2 A No. I don't think so.

3 Q Okay. Do you have emails that concern the
4 Home Port?

5 A Likely. I usually archive most of my
6 communications, so I would have communication with
7 Chesapeake Yacht Center.

8 Q Right.

9 A And possibly some communication with Nick
10 Harvey from Jeanneau.

11 Q Uh-huh.

12 A So, yeah, I probably would be able to find
13 documentation.

14 Q Do you -- are you one of the types of
15 people who actually puts things in folders? So you
16 might have all of that stuff collected together in a
17 folder?

18 A No.

19 Q Okay.

20 A Not for that kind of stuff. When it's not
21 work stuff, huh-uh.

22 Q Okay. So would it entail you doing some
23 sort of word search?

24 A Correct.

25 Q Do you have any photographs of the Home

1 Port?

2 A Sure.

3 Q Okay. What I would like you to do is, and
4 I will send a letter to Chris asking the same thing,
5 but we would like to get copies of photographs that
6 you have.

7 A Okay.

8 Q And we'll talk about the emails, and we
9 can talk about that separately.

10 Do you also -- to the extent there were
11 any invoices that you had related to the Home Port,
12 would you have copies of those?

13 A Only if they were sent to me by email.

14 Q Okay.

15 A And would require some extensive searching
16 for them.

17 Q Stepping ahead a little bit, I know when
18 you made your insurance claim, we have seen a
19 selection of invoices and things that you sent to
20 your insurance company as part of that claim.

21 A Yes. For -- yeah, yeah. That absolutely.

22 Q You had a lot of personal property and
23 things like that onboard?

24 A Yeah. We detailed that extensively.

25 Q Okay. Did you maintain a logbook on the

1 Home Port?

2 A No.

3 Q Okay. That's not a practice you have on
4 your boat ownership?

5 A Huh-uh.

6 Q Okay. Turn a little bit to sort of your,
7 the process you went through in deciding to buy the
8 Home Port. How was it that you came to be in touch
9 with Chesapeake Yacht?

10 A I think it was at the Annapolis Boat Show
11 I first saw the Prestige vessels, and I think I -- I
12 don't remember who I first met, but I had a couple
13 conversations with Josh.

14 Q Okay. That's Josh White; right?

15 A Correct. One of the principals.

16 Q Right.

17 A And then he pursued me for about a year or
18 so. And then I don't remember exactly why we were
19 ready at that time, but sometimes you go, all right,
20 let's make an upgrade --

21 Q Okay.

22 A -- and, you know, let's make the change.

23 Q So you referred to seeing him at the boat
24 show, the Annapolis Boat Show. Would that have been
25 in 2014?

MICHAEL PORT - 03/13/2019

Page 16

1 A It would have been the year prior to the
2 purchase of the vessel.

3 Q Okay. And you bought it at the end of
4 2015; right?

5 A Correct.

6 Q Because the fire was August 2016?

7 A Correct.

8 Q Right. Okay. How was it that it was
9 Chesapeake Yacht as opposed to somebody else that
10 you dealt with in respect to the purchase of the
11 Home Port?

12 A Well, to my knowledge Chesapeake Yacht
13 Center is the only dealer on the Bay. So there
14 wouldn't be anybody else selling new Prestige
15 vessels.

16 Q Okay. And you refer to the Bay. Most of
17 your boating is in the Chesapeake; right?

18 A Correct. Unless we take a trip. We
19 usually take a trip once a year either up north or
20 south. This particular winter we did take the boat
21 down to Florida.

22 Q Okay. Before buying the boat did you, for
23 want of a better phrase, test drive it?

24 A Yeah. Sea trial.

25 Q Sea trial.

1 A I did. After you put a deposit down --

2 Q Right.

3 A -- you can see trial it, so I did a sea
4 trial.

5 Q Okay. Do you recall whether there were
6 any particular add-ons, bell and whistles that you
7 wanted when you purchased the boat?

8 A Not particularly.

9 Q Okay.

10 A I don't remember. I don't recall.

11 Q All right. You've talked about Josh White
12 at Chesapeake Yacht Center, at CYC. Can you just in
13 general tell me who else at CYC you had any dealings
14 with in relation to the Home Port?

15 A Sure. So Ryan Dobb --

16 Q Okay.

17 A -- and Tom McGinley?

18 Q I believe that's right, yes.

19 A And then Justin Coleman.

20 Q Okay.

21 A My primary contact is Ryan.

22 Q Okay.

23 A Because Ryan runs the service department
24 as I'm sure you know. And then Tom did a lot of
25 work on the boat as well as Justin.

1 Q Okay. Was there a sort of division of
2 labor between the types of work that Tom McGinley
3 did and the type of work that just Justin Coleman
4 did?

5 A I wouldn't know.

6 Q Okay. Would you typically, if you had
7 something that you wanted done on the boat, you
8 would contact Ryan and leave it up to him to assign
9 who was actually going to do the work?

10 A Correct. I would always prefer Justin to
11 do the work for a couple different reasons, but it's
12 Ryan's prerogative, I suppose.

13 Q Right. Why did you, why did you prefer
14 Justin to do the work?

15 A Well, Justin is more communicative, so he
16 would explain everything that he found and
17 everything he was doing.

18 Q Okay.

19 A And so he would spend, he would go out of
20 his way to spend time educating me on what the issue
21 was. And I appreciated that.

22 Q Okay. Are you the type of person who is a
23 very hands-on owner? You like to be involved in
24 everything that goes on?

25 A Yeah. Yeah.

1 Q Okay.

2 A Absolutely. So obviously I run the boat
3 myself, I captain the boat myself.

4 Q Right.

5 A I think that -- I have not yet met a boat
6 owner that doesn't live on their boat who uses their
7 boat more than we do.

8 Q Okay.

9 A It's my greatest passion. I love it. I
10 could spend every day on the water if --

11 Q If it paid.

12 A If it paid. In the way that, you know,
13 running a business does like mine.

14 Q Right.

15 A But, yeah, so we're very, very hands-on
16 and meticulous about the way that I care for the
17 vessel. I don't even let people wear shoes on the
18 boat.

19 Q All right. After you made the decision to
20 purchase the Home Port, and obviously paid for it,
21 was there a shake-down cruise when you first
22 obtained -- you first became the owner of the boat?

23 A What do you mean by a shake-down cruise?

24 Q It's a term that I use when it's sort of a
25 first -- it's not like a sea trial, because a sea

1 trial at least the way I believe the way you've
2 explained it, is really I'm looking at this boat
3 with an eye to purchasing it.

4 A Uh-huh.

5 Q A shake-down cruise is that I have now
6 purchased this, but I need to know everything that's
7 on it --

8 A Oh, yeah.

9 Q -- so somebody can explain things to me.

10 A Yeah. Yeah. So when we took delivery, we
11 spent a few hours going through the various systems
12 with Tom.

13 Q Okay.

14 A And then we went for a short run just
15 around the harbor in Baltimore with Tom to go over
16 some of the systems. And the joy stick system was a
17 new system. I was used to shifters, more
18 traditional. So we went over that. And then that
19 was it.

20 Q Okay. And that was with Tom McGinley?

21 A That was with Tom McGinley. We were
22 supposed to have a captain's, what do they call it?

23 A -- Cummins was suppose to give me a captain's
24 briefing.

25 Q Uh-huh.

MICHAEL PORT - 03/13/2019

Page 21

1 A So someone from Cummins was suppose to
2 come and go through the engines. And that was
3 something that I requested a number of times, but
4 Cummins did not follow through. I think Ryan had a
5 hard time getting them to actually come.

6 Q Okay.

7 A So I never got the captain's briefing on
8 the engines themselves.

9 Q From Cummins?

10 A From Cummins. Right.

11 Q Okay.

12 A I did get, you know, a briefing from Tom,
13 as I said.

14 Q All right. Can you sort of -- you had the
15 boat for what, a period of about four or five
16 months?

17 A Yeah.

18 Q Okay. I don't want to know every time you
19 went out on the boat, but can you give me sort of a
20 general description of how often you used it, how
21 far you went? Do you know? That type of thing.

22 A Sure. So that summer we took one long
23 trip down to Virginia.

24 Q Okay.

25 A So that was about a week-and-a-half I

1 think. About a week-and-a-half.

2 Q Do you know when that was?

3 A I could find out. I would have to go back
4 and look at the schedules, but it was either July or
5 August.

6 Q Okay.

7 A That's usually when we take our summer
8 trips.

9 And then we would use the boat pretty much
10 every weekend. And then sometimes we would be there
11 during the week as well. We're a blended family, so
12 when the kids were at their other parent's house, we
13 would often be out at the boat ourselves.

14 Q Okay.

15 A So regularly. There was a two-week period
16 before the boat burned down --

17 Q Uh-huh.

18 A -- was the longest we had not been to the
19 boat that summer, as far as I recall.

20 Q So the boat burned on August 31st; right?

21 A Correct.

22 Q So in the two weeks before that you had
23 not gone on the boat?

24 A Correct.

25 Q What had you done in the period before

1 that two-week hiatus?

2 A I don't recall anything specific or
3 unusual. Just sort of regular use of the boat.

4 Q Okay.

5 A You know, we would usually go to a cove,
6 drop the anchor for the night, you know --

7 Q So it wasn't a long -- you didn't have
8 your long trip immediately before the two-week
9 hiatus?

10 A I don't think it was immediately before,
11 no. But it would have been within a month or two
12 before I would think.

13 Q All right. And what records would you
14 have to be able to tell exactly when you took the
15 long trip, for example, in the summer?

16 A I believe if I go back and look at our
17 calendar, it may very well be in there when we took
18 that trip.

19 Q Okay.

20 A I suppose it's possible I could look at
21 maybe some credit card statements from a number of
22 years ago, if they're still online. I wouldn't keep
23 them from that --

24 Q Right.

25 A -- you know, printed, but just to see when

1 we were there.

2 Q Okay. And you --

3 A Different marinas and different things we
4 did while we were on the trip.

5 Q So you went down to the coast of Virginia
6 on that --

7 A Correct.

8 Q -- last long trip, for want of a better
9 phrase?

10 A Correct.

11 Q Okay. In the -- I guess I'm trying to
12 sort of work backwards first. But did you have
13 issues that -- with the boat that needed service
14 during the period of time that you owned the boat?

15 A Yes.

16 Q Okay. And can you give me sort of a brief
17 rundown of the types of issues that you had that
18 required service?

19 A Sure. So I'll do my best, given that it
20 was a long time ago.

21 Q Sure.

22 A But we had a number of issues with battery
23 chargers.

24 Q Okay.

25 A Battery charger was going off on its own.

1 And so then I believe they replaced the battery
2 charger, but I think they replaced the wrong one.

3 Q Okay.

4 A So then they came back and replaced the
5 other one, so they put two new battery chargers in.
6 They replaced all of the batteries on the boat.

7 Q Uh-huh.

8 A Because they were overheating and burning
9 off the water because they were wet-cell batteries.

10 Q All right.

11 A We had issues with the running lights
12 burning out. And they were LEDs, so they should
13 have lasted, you know, for a lifetime.

14 Q Uh-huh.

15 A We had issues with the radar going out,
16 not working, that had to be either fixed or
17 replaced. I don't remember which one they did.

18 We had issues with the fiberglass. I
19 don't know what you call the structure, like the top
20 of the hull. You know how they have the hull and
21 then they have the top and they put the two
22 together?

23 Q Uh-huh.

24 MR. HARTMAN: The superstructure.

25 A Yeah. The superstructure. So the

1 superstructure right above where the windshield was
2 there was discoloration because water was getting
3 in.

4 Q Okay.

5 A And some cracking. And they said that,
6 from what I can recall Chesapeake indicating, was
7 that that's something that happens as a
8 manufacturing issue, they've seen that before and it
9 needed to be fixed. We never fixed it because we
10 were waiting for the off season, but of course the
11 boat was lost before that.

12 Q Right.

13 A So that was an issue we had. A number of
14 issues with the, with the stanchions and the poles
15 for the bimini. The welds cracked, split apart --

16 Q Okay.

17 A -- had to be replaced.

18 We had a number of issues with the load on
19 the starboard engine, which was much higher than the
20 load on the port engine at the same RPMs.

21 Q Okay.

22 A We had one of the shafts -- so there's two
23 shafts; one on each pod, of course. The shaft on
24 one of the pods sheared-off and the propellers were
25 lost. And that was, you know, pretty surprising.

1 We didn't hit anything. It just sheared off.

2 Cummins gave me a reason as to why they thought it
3 sheared off, which I could share with you if it's
4 relevant to you.

5 We had issues with the generator going
6 off.

7 Q When you say going off --

8 A Like turning off.

9 Q Shutting off?

10 A Shutting off. We had issues with the
11 stove turning on and off on its own, especially when
12 we were running the generator.

13 Q Okay.

14 A I think we had some issues with the -- I
15 feel like we had some issues with the swim platform.
16 I don't remember, I don't recall exactly what they
17 were right now, but I --

18 Q I've seen some references to problems with
19 a gasket on the swim platform.

20 A Yeah. Yeah. That's right. The gasket
21 had come off the swim platform.

22 Q And also I think -- did it raise and lower
23 and there was --

24 A It was getting stuck. They did something
25 to the hydraulics --

1 Q Right.

2 A -- I believe to fix it.

3 Let's see. What else? It was a long time
4 ago. We had -- there was an oil leak when we first
5 took the boat, a pretty substantial oil leak, I
6 believe from the starboard engine, if I recall
7 correctly.

8 Q Okay.

9 A We were getting some error messages when,
10 when we would start to get underway, and from that
11 particular engine, and then if I would shut the
12 engines down and restart them, often the error
13 message would just go away and we would just
14 continue on. And these are things I noted to CYC
15 about.

16 Q Right.

17 A Those are the ones that are coming to
18 mind. There may be others.

19 Q I think there were some other minor --
20 there was a problem with the shower drain, but --

21 A Oh, yeah, yeah. The shower drain wasn't
22 pumping quickly.

23 Q That comes to mind, but --

24 A Yeah.

25 Q I tried to write the various things you've

1 said, and what I'm going to try and do now is sort
2 of go through these and one, get a little more
3 detail and also try to put in a timeframe. All
4 right?

5 A Uh-huh. Sure.

6 Q Okay. So the battery chargers. I believe
7 you said that both of the battery chargers were
8 replaced?

9 A Correct.

10 Q Okay. And that they also replaced all of
11 the batteries.

12 A Correct.

13 Q Okay. After they replaced the battery
14 chargers and replaced the batteries, did you
15 continue to have problems with the new battery
16 chargers and batteries?

17 A Not that I recall. I don't think it was a
18 very long -- nope. I think they did that in July,
19 end of July.

20 Q I believe that's right, yes.

21 A So it was about a month before we lost the
22 boat.

23 Q Right. Okay. Did they replace the
24 batteries and the battery charger before you took
25 your trip down to Virginia?

MICHAEL PORT - 03/13/2019

Page 30

1 A That I would have to check. I'm not sure.

2 Q All right.

3 A Not sure.

4 Q The running lights, I guess the bulbs just

5 died?

6 A Yeah. I don't know if the bulbs -- I

7 can't say the bulbs died --

8 Q Right.

9 A -- but they weren't working.

10 Q Okay.

11 A So that, you know.

12 Q Was that problem fixed before the fire?

13 A Yes.

14 Q Okay.

15 A I believe so.

16 Q Okay. Radar not working, was that still

17 an issue in the last couple of times you used the

18 boat before the fire?

19 A Not that I recall.

20 Q Okay. Fiberglass discoloration, you said

21 they had waited on that?

22 A Correct.

23 Q The bimini welds, I don't really care

24 about. No offense.

25 A Yeah. I didn't think you would. But you

1 asked. So...

2 Q Right. No, no. That's fine. The load on
3 the starboard engine, was that still an issue when
4 you took your last couple of trips?

5 A Yes. That was never fixed.

6 Q Okay.

7 A The explanation that I got was well,
8 sometimes these loads are different on the different
9 engines, they're two different engines, so I kind of
10 thought they should be a little closer to each
11 other. But, you know, they're the supposed experts.
12 So...

13 Q Right. The shaft on the one pod sheared
14 off; I presume that had been fixed, otherwise you
15 wouldn't have been able to take your long trip?

16 A Correct. Correct.

17 Q Okay. The issue with the generator
18 shutting off, was that still a problem in the last
19 couple of trips that you took?

20 A I don't recall.

21 Q Okay. Similarly this mysterious stove
22 that turned itself on and off --

23 A Stove was never fixed.

24 Q Never fixed. Okay.

25 A They couldn't determine the cause.

1 Q Okay. The stove, it's fairly obvious, the
2 stove is not down in the engine room, the stove is
3 in the galley of the boat?

4 A Correct.

5 Q Okay. The swim platform, this issue of
6 having difficulty raising and lowering it, was that
7 fixed before the fire?

8 A I believe so, yes.

9 Q Okay. The oil leak issue, was that, that
10 was fixed before the fire?

11 A Yeah. That was early on, yeah.

12 Q Okay. That was your Dave Matthews
13 incident; is that right?

14 A What do you mean?

15 Q Weren't you listening to the Dave
16 Matthew's concert? I saw that you --

17 MR. O'DONOVAN: Go off the record for a
18 second.

19 - - -

20 (Discussion off the Record.)

21 - - -

22 BY MR. O'DONOVAN:

23 Q All right. Sorry. Back on the record.

24 Lastly, you had mentioned there was some
25 problem with error messages coming from the engine;

1 that you would shut it down and they sort of kicked
2 themselves on?

3 A Yeah.

4 Q Was that a continuing problem through the
5 time you had the boat or was it fixed?

6 A I can't recall.

7 Q Okay. We've run through a litany of
8 issues here. Were there any other electrical-type
9 problems that you recall onboard the Home Port?

10 A Not that I recall.

11 Q All right. And the work that was done to
12 fix each of these problems, with the exception of
13 the shaft and the oil leak, was all of the other
14 work done by CYC people?

15 A Everything. Yeah.

16 Q Okay. But the work on --

17 A The work on the, you know, Cummins
18 obviously works on the engines and the --

19 Q Right.

20 A -- and the pods. But supervised by CYC.

21 Q Okay.

22 A But they contract them on my behalf and
23 then CYC bills me.

24 Q CYC would reach out to Cummins and make
25 the arrangements and then they would come and make

1 the repairs under CYC.

2 A Correct. And I wouldn't have much
3 interaction with them unless I just happened to be
4 there.

5 Q Okay. Try not to talk over each other.

6 A Sorry.

7 Q Court reporter doesn't like it.

8 Do you have an idea as to how many engine
9 hours you had on the engines before the fire?

10 A Well, when we took delivery of the boat,
11 it had approximately 80 hours on it.

12 Q Okay.

13 A I suppose from running to boat shows
14 and --

15 Q It was a demo boat? Is that --

16 A Correct. That's what they called it.

17 Q Okay.

18 A So I think we put maybe close to a hundred
19 hours --

20 Q Okay.

21 A -- on top of that. Again, but that's an
22 estimate.

23 Q Right.

24 If I was to ask you who other than Michael
25 Port was the person who spent the most time on that

1 boat, what would your answer be?

2 A My wife.

3 Q Okay. Sort of next in the time spent on
4 the boat, your kids presumably?

5 A Kids. Yeah.

6 Q Okay. I don't intend to depose your kids.
7 I can tell you that.

8 Did you have any sort of non-family
9 members who spent a lot of time on your boat?

10 A No. Other than when we would have guests
11 for a weekend.

12 Q Right. But was there like one, did you
13 have a particular guest who would come down to your
14 boat quite regularly is what I'm trying to get at?

15 A No.

16 Q Okay. Where did you dock the boat?

17 A At Rock Hall.

18 Q Okay.

19 A Osprey Point Marina.

20 Q And it was there the whole time you owned
21 it?

22 A Correct.

23 Q When it wasn't in the water?

24 A Correct.

25 Q All right. Was there a particular reason

1 that you did not use the boat in the two weeks
2 before the fire?

3 A Nothing to do with the boat. Just
4 scheduling.

5 Q Okay. I'm going to jump ahead a bit. So
6 how did you hear about the fire?

7 A The dockmaster called me. And I didn't
8 pick up. I was being interviewed on a podcast.

9 Q Uh-huh.

10 A And so they sent me a text. He said, you
11 know, contact me right away. I said I can't. I'm
12 on an interview right now. He said your boat is on
13 fire, it's a total loss. I said --

14 Q I don't mean to laugh. I'm sorry. The
15 timing was not good.

16 A No, the timing was brilliant. I finished
17 the podcast like a professional, and I called him
18 and I said what's going on, and then of course I
19 immediately got in the car and drove out.

20 Q Okay.

21 A It's about a three hour drive,
22 two-and-a-half, three hours.

23 Q Right. So what did he tell you other than
24 your boat's on fire? When you got down here what
25 did he tell you about how they discovered the fire?

MICHAEL PORT - 03/13/2019

Page 37

1 A Sure. So he said he was walking the docks
2 and he saw some smoke coming from the boat. And as
3 he started to get closer, he said that a fire
4 erupted, you know, significantly and with intensity.
5 So much so that he couldn't get close enough to the
6 boat to either let the lines go or cut the lines
7 because it was so hot.

8 Q Uh-huh.

9 A And then they moved other boats around it
10 to try to protect them, and fortunately the wind was
11 blowing off the dock. So... And the boat was on
12 the T-head, so it was at the very end.

13 Q Right.

14 A That was good for the other boats.

15 And then the fire boats were called in and
16 they started trying to put it out.

17 Q Do you know the dockmaster's name?

18 A I don't remember it, but I could find out
19 certainly. Yeah.

20 Q Okay. You said he told you that he first
21 saw smoke and then he saw sort of more fire erupting
22 from -- whereabouts on the boat? Did he say?

23 A He seemed to suggest that it was coming up
24 from inside the cabin in the middle.

25 Q Okay.

MICHAEL PORT - 03/13/2019

Page 38

1 A I guess either the windows blew out or
2 something.

3 But I was sent a couple videos from folks
4 who were around the marina when it was happening and
5 it was a massive fireball. Pretty scary.

6 Q The boat was moored which side up against
7 the pier? Port side to or starboard side to?

8 A Starboard side to.

9 Q Okay. Did the dockmaster give you some
10 idea as to whether the fire appeared to be more on
11 one side or the other?

12 A No.

13 Q Okay. Sorry. You said you had seen
14 videos of the fire?

15 A Correct.

16 Q Taken by whom?

17 A Just like people at the marina --

18 Q Okay.

19 A -- who were there.

20 Q Do you still have those?

21 A I may. Yeah.

22 Q I would ask if you could -- I don't mean
23 to make this a memory test or to make you search
24 forever, but I do think if you have access to those
25 relatively easily, I would ask that --

MICHAEL PORT - 03/13/2019

Page 39

1 A Well, when we take a break, I'll look on
2 my phone because they may still actually be on the
3 phone.

4 Q Okay. That would be great.

5 A Sure.

6 Q Does the dock at Rock Hall Marina have
7 CCTV?

8 A Not to my knowledge.

9 Q Okay.

10 A It's Rock Hall.

11 MR. HARTMAN: That's why you go there. It
12 doesn't have CCTV.

13 THE WITNESS: Correct. Right.

14 BY MR. O'DONOVAN:

15 Q I know you said you and presumably your
16 wife and family -- but nobody took the boat out in
17 the two weeks before the fire?

18 A No.

19 Q Were there people who would have been on
20 the boat to do various things in the two weeks
21 before the fire?

22 A I don't know. The only people that would
23 have been on the boat to do various things would
24 have been folks from CYC, if they were working on
25 something.

1 Q Okay.

2 A And I don't recall if they were. So they
3 would have to tell you that.

4 Q Right.

5 A And then the only other person that, the
6 only other people that could have been on the boat
7 would be the people that wash the boat. But I don't
8 recall if they were on the boat during that two
9 weeks and they don't go inside the boat, they don't
10 clean the inside, just the outside.

11 Q Right.

12 A And, frankly, I don't remember who I was
13 using at that time. There was a couple different
14 vendors.

15 Q Did you arrange for that or did CYC
16 arrange that for you?

17 A Oh, no. Actually that was CYC. Because
18 one of the things you got with the boat was either a
19 year of weekly washes or two years of bi-weekly
20 washes.

21 Q Okay.

22 A So -- oh. So I think it was Schuman.
23 Maybe that's who they contacted.

24 Q Okay.

25 A But you would have to check with them. Or

1 it might have been Prestige, which is a -- not
2 actually Prestige, it's another cleaning company.

3 Q Right.

4 A So it would have been one of those folks.

5 Q And did you have your boat washed weekly
6 or bi-weekly?

7 A Weekly.

8 Q Weekly. So if it had -- washing being
9 done according to schedule, it should have been
10 washed in the two weeks it sat there?

11 A Correct. Correct.

12 Q You did not have a cleaning service, for
13 want of a better phrase, who would come onto the
14 boat and do the inside, like how your house gets
15 done?

16 A No. Not that, no.

17 Q Okay. When you left your boat the last
18 time before it caught fire, did you connect it up to
19 shore power?

20 A Yes.

21 Q Okay. And I presume that was standard
22 practice whenever the boat was at the marina; right?

23 A Correct.

24 Q Did you have the same berth that you used
25 at the marina the whole time you kept the boat

1 there?

2 A Yes.

3 Q Okay. Is there a designation of that
4 berth? Do you know?

5 A Well, it was a T-head. There's only two
6 or three T-heads. I don't remember the letter
7 designation for it. But if that's something that's
8 important to you, I can go back and look at the
9 marina schematics and I'll tell you which one it is.
10 But because of the size of the boat, we could only
11 fit on a T-head.

12 Q Right. You can't fit in a slip because
13 you're too long?

14 A Correct. The biggest slips they had were
15 50 feet.

16 Q Right. Okay. You were at a T-head and it
17 was the same T-head that you typically had the boat?

18 A Always. Yeah. Always.

19 Q All right. When the boat is connected up
20 to shore power and it's sitting at the T-head at the
21 marina, what electrical equipment is still running?

22 A So I have a practice of turning off any
23 breaker, the breaker for any system that is not used
24 when the boat is sitting. So my standard practice
25 was to only leave on the battery chargers.

1 Q Okay --

2 A And the electrical outlets, if -- you
3 know, if something needed a charge, you know, like
4 for the VHF radio, my back up VHF radio to keep it
5 charged.

6 But I would -- my standard practice, as I
7 said, was to turn everything else off because it's
8 not needed.

9 Q Okay.

10 A There were times where I might leave the
11 humidifier on, you know, through the HVAC system if
12 it was going to be very hot, but I can't recall if
13 it was on at that time or not.

14 Q Okay. It would have been, I mean it was
15 August 31, that's typically a fairly warm time of
16 the year.

17 A Correct. Correct. I just -- I can't say
18 that I did because I feel like I was -- more often
19 than not, I wouldn't turn it on because I'm not
20 generally comfortable leaving systems on when we're
21 not there.

22 Q All right.

23 A Because, you know, if a sea strainer gets
24 clogged, you know, it can get too hot and then it
25 will fail and then you've got alarms going and you

1 don't want that.

2 I do remember something else.

3 Q Yes.

4 A There was a VHF issue. The VHF would
5 sometimes go on by itself.

6 Q Oh.

7 A And then the VHF alarms would go off, and
8 that had something to do -- I think the VHF was
9 replaced. The first one that the boat came with was
10 malfunctioning. They replaced it, but they still
11 had this issue where it would go on by itself. The
12 alarms would go off because it wasn't connected to
13 autopilot because, of course, the boat wasn't on to
14 have it connected. So there was no GPS signal
15 registering was why the alarms would go off.

16 Q Okay. Was that a problem that continued
17 throughout the time you had the boat?

18 A Yeah.

19 Q Okay. I presume you have a refrigerator
20 on your boat?

21 A Correct.

22 Q Would that be left on?

23 A Yes.

24 Q Okay.

25 A There is no breaker for that. That's

1 connected, from my understanding, directly to the
2 batteries.

3 Q Okay. So it was only things that you
4 could disconnect by switching off the breaker that
5 you would switch off the breaker?

6 A Correct.

7 Q Okay. Did your boat have smoke detectors?

8 A I don't think those are standard on that
9 boat.

10 Q Okay.

11 A So I don't think so. No.

12 Q Did you have lights that were left on the
13 boat or did you sometimes have lights on a timer or
14 something like that?

15 A No. No. I leave all the lights off.

16 Q Okay. Was there an alarm system, like a
17 burglar alarm system on the boat?

18 A No.

19 Q No. Okay. When you got down to the
20 marina after the fire started, it took you, you said
21 about -- so it was probably three or four hours
22 after the fire started?

23 A Probably about three-and-a-half, four
24 hours by the time I got out of my house, yeah.

25 Q Who -- was the fire still going on or was

1 the --

2 A The boat was sitting on the bottom at that
3 time --

4 Q Okay.

5 A -- and the fire was out. The Coast Guard
6 was there. Of course at that time they had put
7 the --

8 Q The boom?

9 A Yeah. Around it to protect the water.

10 Q Uh-huh.

11 A But, no. It was out. There were just a
12 lot of crowds. People were very interested. And
13 Ryan met me over there.

14 Q Okay. And that's what I was turning to
15 next was sort of who did you talk to after the fire
16 about the fire? So... Did you talk to the
17 dockmaster?

18 A Yes. I talked to the dockmaster. He gave
19 me the information that I just gave you. I talked
20 to Ryan. I talked to the Coast Guard.

21 Q Okay.

22 A I talked to the Fire Marshal. I believe
23 that's what he was called.

24 Q Uh-huh.

25 A Obviously, I talked to random people on

1 the dock who were already making their, giving me
2 their analysis of why the fire started, which I
3 thought was bizarre. You know, very bizarre.

4 Q I know just what you're -- yes.

5 A The only thing they like more than
6 watching people dock is watching a fire, I suppose.

7 Q Yes.

8 A So, yeah, those are the people I spoke to
9 primarily.

10 Q Did you -- when you spoke with either the
11 Coast Guard or the Fire Marshal, did they, was
12 there -- did you have to give a formal statement;
13 like a written statement or a tape recorded
14 statement?

15 A No. Not a tape recorded statement. The
16 Fire Marshal I believe I spoke with afterwards
17 again.

18 Q Okay.

19 A And I had contacted him a few times as he
20 was working on it to see if I could find out what
21 was going on and if he had figured it out.

22 Q Right.

23 A The Coast Guard, I did have to sign
24 something and they gave me one of those warnings
25 that you get if you spill --

1 Q Oh, right.

2 A -- you know, and they said you're fine as
3 long as you don't keep doing this. So that was just
4 sort of standard procedure.

5 Q Right. Put you on notice that you might
6 have to pay for the clean up of the oil spill kind
7 of thing --

8 A Correct. Exactly.

9 Q Yeah.

10 A But I think that was pretty much it.

11 Q Okay. Did you have any discussions with
12 the Coast Guard after, after you saw them at the
13 marina?

14 A No.

15 Q Did they have any further investigation?

16 A No.

17 Q Okay. You said you spoke with the Fire
18 Marshal several times after the fire.

19 A Yeah.

20 Q Did he ever tell you what he believed was
21 the cause of the fire?

22 A No.

23 Q Okay.

24 A He just told me that he knew the origin,
25 but -- or he believed he knew the origin, but not

1 the cause.

2 Q Okay. And what did he tell you? Was
3 he -- I'm trying to make an English question.

4 What did he tell you he believed was the
5 origin of the fire?

6 A He said it was aft, aft in the engine room
7 on the starboard side.

8 Q Okay.

9 A I think. Yes.

10 Q Did he explain to you why it was he
11 believed that was the origin of the fire?

12 A No.

13 Q Okay. You made a claim under your
14 insurance policy for the value of the boat; right?

15 A Correct.

16 Q Other than Mr. Schierloh, has anybody else
17 told you what they believe was the cause of the
18 fire?

19 A No.

20 Q Okay. Other than the Fire Marshal, have
21 you talked -- and Mr. Schierloh -- have you
22 talked -- it is Schierloh, right? Or Sheerloh?

23 MR. SCHIERLOH: Go off the record for a
24 minute.

25 - - -

1 (Discussion off the Record.)

2 - - -

3 BY MR. O'DONOVAN:

4 Q Back on the record. Other than Chris and
5 the Fire Marshal, have you talked to anybody else
6 about what they believed was, and these -- let me
7 rephrase that question.

8 Other than the random strangers on the
9 dock who gave you their very valuable opinion as to
10 the cause of the fire and Chris and the Fire
11 Marshal, have you talked to anybody else about what
12 they believed was the cause of the fire?

13 A No. Other than having discussions with
14 say Ryan, you know, about what was going on as it
15 was going on.

16 Q Okay.

17 A You know, and everything was unknown at
18 that time.

19 Q Right. Have you and Ryan had discussions
20 since then about what he believed was the cause of
21 the fire?

22 A No. We have had a lot of discussions
23 since then, because I still work with them.

24 Q Right.

25 A But not really.

1 Q Right. Now you, after the Home -- after
2 the fire aboard the Home Port in August of 2016, you
3 bought another boat again through CYC; correct?

4 A Correct.

5 Q Okay. And so as a result of that, you
6 still have dealings with Ryan and Justin and Tom at
7 CYC; correct?

8 A Correct.

9 Q Okay. I'm going to show you sort of
10 this -- certain documents that I have, so we'll go
11 through these. It take a little bit longer. Do you
12 need a break? Are you good?

13 A I think I'm okay. Are you guys okay?
14 You're very patient to be able to sit and just
15 listen.

16 MR. HARTMAN: It's not our first
17 deposition.

18 THE WITNESS: Clearly. I don't think I
19 have the patience to do what you do.

20 BY MR. O'DONOVAN:

21 Q All right. Mr. Port, some of these are
22 just so we have them on the record, frankly.

23 MR. O'DONOVAN: Can you mark this as Port
24 2, please?

25 (Port Exhibit Number 2

1 was marked for identification.)

2 BY MR. O'DONOVAN:

3 Q I apologize for the size.

4 Do you recognize that as the purchase
5 agreement for the Home Port?

6 A Yes.

7 Q Okay. Is that your signature down in the
8 bottom left there?

9 A Yes.

10 Q Okay. And the second page of this is
11 additional terms and conditions. Was that attached
12 to the marine purchase agreement when you purchased
13 the boat?

14 A I don't recall.

15 Q Okay. You can just leave it there.

16 MR. O'DONOVAN: Can you mark this as Port
17 3, please?

18 (Port Exhibit Number 3
19 was marked for identification.)

20 BY MR. O'DONOVAN:

21 Q Mr. Port, you would not have seen this
22 before because this is a document that Ryan created
23 that sort of summarized the various work that CYC
24 did for you on the Home Port.

25 A Uh-huh.

1 Q So really what I just sort of wanted to go
2 through is if you could just sort of skim through it
3 and just see if it refreshes your recollection as to
4 any other problems that you may have had aboard the
5 boat, and then there are some other things in
6 general that I will talk with you, sort of in
7 general.

8 A Sure.

9 Q So the first -- on the first page there's
10 an entry April 25, Tom, which I presume is Tom
11 McGinley?

12 A Uh-huh.

13 Q One of the things it says is they replaced
14 the port-side window motor. That was something we
15 hadn't talked about.

16 A They actually replaced both starboard and
17 port side motors for the windows.

18 Q Okay.

19 A And they both failed.

20 Q Okay.

21 A And then also the bimini LED strip --

22 Q Right.

23 A -- is something that wasn't working
24 either.

25 Q Okay.

MICHAEL PORT - 03/13/2019

Page 54

1 A That needed to be fixed. So that's a good
2 catch.

3 Q The replacements of the windows after they
4 replaced the motors on the windows, did they work
5 properly or did --

6 A Yes.

7 Q Okay. And some of these I'm not going to
8 go through. There was a whole issue about holding
9 tanks and things like that, which frankly I don't
10 think we're particularly interested in.

11 There's down on the bottom, June 28, '16,
12 the spot light. Was that fixed?

13 A Yes.

14 Q Okay. And then if you go over to the next
15 page. Let's sort of work through here.

16 So July 5, 2016, Justin according to this,
17 came on board and changed the impeller on the
18 generator. Do you recall that being done?

19 A Yes.

20 Q Okay. Did that, did you have problems
21 with the generator after Justin fixed the -- did
22 that work in July?

23 A I believe we still had problems. Changing
24 the impeller didn't solve the problem.

25 Q Okay. And then there's a reference there

1 to replace the battery charger. I think you had
2 told me there were two battery chargers that were
3 replaced, and in fact the next entry down --

4 A At different times.

5 Q Right. Okay.

6 July 15, that's when Cummins did the prop
7 and shaft replacement?

8 A Correct.

9 Q Okay. And then we have July 20, Justin
10 and Tom came on board and replaced the other battery
11 charger and the various -- and the batteries
12 onboard; is that right? Do you see that?

13 A I believe so. Yeah.

14 Q Is it your understanding that -- well, let
15 me step back for a second.

16 Your boat, the Home Port, had two battery
17 chargers on it; right?

18 A Correct.

19 Q Okay. And were both battery chargers
20 replaced sometime in July?

21 A Yes.

22 Q Okay. And I believe I had asked you this,
23 and you indicated once the battery chargers had been
24 replaced, you don't recall there being any more
25 problems with the battery chargers?

1 A Correct.

2 Q Okay. And in July 20 when they replaced
3 the engine and house batteries, were there other
4 batteries onboard that were not replaced or did they
5 replace all of them?

6 A My understanding is they replaced all of
7 them.

8 Q Okay. And, again, after the batteries
9 were replaced in July, do you recall having any
10 battery-associated problems?

11 A No.

12 Q Okay. And then there is a reference July
13 20, the starboard-side window, so that apparently
14 was -- you had referred to that that both windows
15 had problems; right?

16 A Correct.

17 Q Okay.

18 A Can I mention something about the
19 batteries?

20 Q Sure.

21 A Yeah. The reason the batteries -- the
22 issue that alerted us to the problem was that we
23 would get this horrible sulphur smell, and when I
24 would check the batteries, the water was too low.

25 Q Right.

1 A Obviously it had been burned off.

2 Q Uh-huh.

3 A And that's, that was -- then they started
4 looking at changing the battery chargers because
5 maybe they were over-charging.

6 Q Uh-huh.

7 A And then of course all the batteries as
8 well.

9 Q Right. But after they replaced the
10 battery chargers and the batteries, did you have
11 that problem with the smell again?

12 A I don't think so.

13 Q Okay. Do you know whether your long trip
14 to Virginia was after they had replaced both the
15 battery chargers?

16 A I don't recall.

17 Q You don't remember?

18 A Huh-uh.

19 Q Okay. That's all I have on this document
20 that I wanted to go through.

21 MR. O'DONOVAN: Mark this as Port 4.

22 (Port Exhibit Number 4
23 was marked for identification.)

24 BY MR. O'DONOVAN:

25 Q The reference to Caitlin Cassidy on the

1 top of this, ignore that. That's my legal assistant
2 who printed out all these emails.

3 So like most emails, if we could work
4 backwards, so if you could turn to the second page?

5 A Sure.

6 Q And just read through that and then I'll
7 ask you a couple of questions about it.

8 A Oh. Well, here it is: "I leave for a two
9 week trip on Saturday."

10 Q That was the point of my showing you this
11 email, Mr. Port.

12 A Yeah. "Assuming the battery charge issue
13 is fixed."

14 Q And if you look, if you go back to Port 3,
15 just so we have the chronology, and this is upside
16 down for some reason.

17 A Yeah.

18 Q That indicated that I believe that they
19 fixed the batteries on July 25, they replaced the
20 batteries -- sorry -- July 20.

21 A July 20.

22 Q And your email is July 17.

23 A 17th. We leave for two-week trip on
24 Saturday, assuming the battery -- yep.

25 Q So I was trying to get sort of this

1 relative chronology as to whether or not the
2 batteries were replaced before you took your long
3 trip down to Virginia.

4 A Yes.

5 Q So this --

6 A I believe that's correct.

7 Q Okay. All right. That's really all I
8 wanted this for. I don't need the rest of it.

9 - - -

10 (Discussion off the Record.)

11 - - -

12 MR. O'DONOVAN: Could you mark this as the
13 next exhibit, please?

14 (Port Exhibit Number 5
15 was marked for identification.)

16 BY MR. O'DONOVAN:

17 Q Okay.

18 A Yep.

19 Q Okay. So a couple of questions about
20 this. What was it that led you to send this email?

21 A Well, I think it was because I was very
22 frustrated with the boat and the quality of the
23 manufacturing of the boat. And we had had -- look,
24 every boat is going to have issues you've got to
25 deal with at the beginning when it's new. That's

1 become -- apparently that's what everybody should
2 expect.

3 Q Right.

4 A I don't have that with a car when I buy
5 it, but apparently with a boat that's the way it is.

6 And CYC took great care of me. They were
7 responsive, they were professional. I really
8 appreciated the work they did. If it was another
9 dealer who didn't take such good care of me, I would
10 have been up in arms, and I would have been
11 contacting Prestige or Jeanneau to try to deal with
12 these issues.

13 Q Uh-huh.

14 A But CYC did a great job. And I wanted to
15 commend them for it, because, you know, when there
16 are these things going on, even though as you read
17 through my emails, I think they're respectfully
18 written, it's still --

19 I'm a business owner myself, so it's tough
20 to get all these complaints from a customer and I
21 wanted to make sure that they knew that I was
22 appreciative, and I wanted to make sure that
23 Prestige Corporate knew that if it wasn't for these
24 folks, I probably would have been screaming bloody
25 murder.

1 Q Okay. Just, this was not something you
2 wrote at the request of anybody from CYC?

3 A Not that I recall.

4 Q Okay. And then the last -- there's a
5 reference to a video that you filmed with Penn Fenn
6 down at the bottom.

7 A Yes.

8 Q Can you tell me a little about that?

9 A Yeah, yeah.

10 MR. HARTMAN: Is that Paul?

11 THE WITNESS: It's Paul Fenn, yeah. Paul
12 Fenn.

13 MR. O'DONOVAN: Sorry. Paul Fenn.

14 A Paul Fenn -- my understanding is Paul Fenn
15 was an executive with Jeanneau.

16 Q Uh-huh.

17 A Then he just was -- as a contractor doing
18 promotional videos, so when someone would buy a
19 boat, he often would come to the boat; why did you
20 buy the boat, do you like it, et cetera, et cetera.

21 And I think they knew I have a lot of
22 experience on camera, so they liked the idea of
23 bringing me on. And then I have a decent size
24 audience because of the work that I do.

25 Q Uh-huh.

MICHAEL PORT - 03/13/2019

Page 62

1 A So I think that was appealing to them as
2 well. And --

3 Q This is -- and I have Googled you like we
4 should always do before a deposition. This is the
5 YouTube video that you did? Is that --

6 A Correct.

7 Q Okay. Okay.

8 A Yeah. I assume they placed it on YouTube.

9 Q It is now on YouTube, right.

10 A Yeah.

11 Q Yeah.

12 MR. O'DONOVAN: Let's go off the record
13 for a second.

14 - - -

15 (Discussion off the Record.)

16 - - -

17 BY MR. O'DONOVAN:

18 Q Let's go back on the record. You had
19 mentioned to me earlier that you had some, taken
20 some electrical courses.

21 When you were experiencing problems with
22 the smell coming from the batteries, did you ever
23 check the wiring that's connected with the
24 batteries?

25 A No.

1 Q Okay. That's not something you felt --

2 A Absolutely. I was not qualified to do
3 that. So the first call is to Ryan.

4 Q Okay.

5 A And they do that.

6 MR. O'DONOVAN: Okay. Mr. Port, that's
7 all I have for you right now. Thank you.

8 THE WITNESS: Sure.

9 MR. HARTMAN: You can sit where you are.
10 I'm just going to move down a little bit, so I'm not
11 hollering from across the room.

12 BY MR. HARTMAN:

13 Q Good afternoon, Mr. Port. My name is Ed
14 Hartman. I'm the attorney for Jeanneau and I'm just
15 going to follow up on a few questions Mr. O'Donovan
16 asked you.

17 One of the initial questions I'm a little
18 unclear on is your relationship with Mr. Schierloh.
19 Did you ever actually retain him as an attorney or
20 are you simply here through the insurance company?

21 A No. I never retained him as an attorney.

22 I suppose I'm here just because I own the
23 boat.

24 Q Right. Okay.

25 A Meaning I don't have a horse in the race.

1 Q Gotcha. Well, then in preparing for
2 today's deposition what, if any, conversations did
3 you have with Mr. Schierloh about this deposition?

4 MR. SCHIERLOH: Hold on a second. I'm
5 representing him in the matter. We've agreed to
6 that. We -- not that it's --

7 MR. HARTMAN: Let's go off the record for
8 a second.

9 - - -

10 (Discussion off the Record.)

11 - - -

12 BY MR. HARTMAN:

13 Q Back on the record. Don't answer that
14 question.

15 I want to be clear on the last time you
16 used the boat. After going through a few documents,
17 it appeared that you took a two-week trip about --
18 and it started on July 16th; is that correct? Or
19 shortly there after?

20 A The documents we just looked through
21 indicated the timeline. So if July 16 is what we
22 indicated in here, then I imagine that's correct.

23 Q And that went from July 16th or 17th,
24 essentially, through the end of July; is that
25 correct?

1 A Correct.

2 Q And then between the end of July and the
3 end of August when the fire occurred, were you on
4 the boat at all?

5 A Yes. I believe so. I do not -- I can't
6 be a hundred percent sure.

7 Q Okay.

8 A But that was the period of time, there was
9 a period of time we weren't on the boat before the
10 fire. But I don't know if we were down and when we
11 were down after the trip.

12 Q Okay. Sitting here today, can you give me
13 your best recollection, if you will, of your usage
14 of this particular vessel after the two-week trip
15 that ended at the end of July?

16 A I don't have any specific memories around
17 what we did after that trip. I think in part
18 because -- or what we do with the boat or on the Bay
19 is always the same. So there's nothing that would
20 have been different after that trip.

21 Q Okay. Do you recall whether or not during
22 that month of August of 2016 whether you were having
23 any work done on the vessel in particular?

24 A I don't recall.

25 Q Other than Chesapeake Yacht Center, was

1 there any other vendor or service company that
2 performed any maintenance or repairs on the vessel
3 while you owned it?

4 A Not to my knowledge, that were not --
5 unless they were contracted by CYC.

6 Q You never hired anyone directly other than
7 Chesapeake Yacht Center to work on the vessel?

8 A Not to my knowledge. There would be no
9 reason to.

10 Q And if you did, would there be some record
11 of that? I know you said you didn't have a log.

12 A There could be. I don't have any. I mean
13 I would say, I'm 99.9 percent sure I have never --
14 nobody else worked on it except CYC.

15 Q Okay.

16 A It was a warrantied boat, so they provide
17 a service for that, so there would be no need for
18 anyone else.

19 Q Gotcha. When you acquired the vessel, do
20 you recall signing a set of documents at a
21 particular time? Let me clarify that.

22 Not when you entered into the contract to
23 buy it, but when you actually paid for the vessel
24 and took ownership? Do you recall what documents
25 you may have signed at that time?

1 A Well, there's two different periods.
2 There's when we signed the purchase agreement, and
3 then there's when we took delivery.

4 Q Right.

5 A So I don't recall signing things when we
6 took delivery. I imagine because we technically
7 owned the boat once we paid for it I suppose.

8 But I don't recall anything specific.

9 Q Do you remember seeing or signing for a
10 warranty from Jeanneau Prestige at any time?

11 A Not that I recall. But I imagine I would
12 have.

13 Q Please tell me about the relative exposure
14 of the vessel in its slip at the end of the T-berth
15 to sea motion or waves or wind. Can you describe
16 that a little bit?

17 A Very, very little bit. Osprey Point is
18 very well-protected. So there was, where the T-head
19 was, there's about maybe a hundred feet of
20 relatively shallow water that, that just goes up to
21 the land, so the land sort of curves out. I'm not
22 describing it very well.

23 But in a nutshell, if you had five-footers
24 on the Bay, we wouldn't know where our slip was. We
25 wouldn't feel anything.

1 Q Does it change depending upon the
2 direction of the wind? Is there enough of a fetch,
3 if you will, to create some waves?

4 A Not, not really. There's very little
5 fetch in that particular area because it's so
6 enclosed.

7 It's the reason that there are three
8 different marinas right in there, because it's very
9 well-protected.

10 Q You testified earlier that you, your
11 standard practice was to leave a power cord attached
12 to the vessel --

13 A Correct.

14 Q -- when you left. How many power cords?

15 A Well, that boat only had one 50 amp
16 service.

17 Q Do you recall where that power cord came
18 from?

19 A I'm not sure what you mean by the
20 question.

21 Q Okay. Let me clarify it. Did it come
22 with the boat when you bought it?

23 A Yes.

24 Q Do you have any recollection of whether it
25 was supplied by CYC or by Jeanneau?

1 A I would imagine it comes from Jeanneau,
2 because it's built into the boat with a Glendinning
3 system that automatically retrieves it.

4 Q Oh, so this is a power cord that is rolled
5 around a spool --

6 A Correct.

7 Q -- in the interior of the vessel?

8 A Correct. A 50-amp service. Sorry.

9 Q Thank you. That clarifies that.

10 It was my understanding that when this
11 boat actually did catch fire, that some of the
12 people were hesitant to go down to the boat because
13 it was so hot.

14 Do you recall that?

15 A Yes. That's what I was told.

16 Q Okay. And I also understood that at some
17 point in time someone from the marina perhaps was
18 brave enough to go down and cut the lines and let it
19 drift away from the dock.

20 Did that happen to your recollection?

21 A I do not think it drifted away from the
22 dock, no.

23 They may have cut a line or two, but when
24 I arrived, the boat was sitting on the bottom right
25 in the same spot that, that it would be if it was

1 floating and moored and tied to the dock.

2 Q So it sank?

3 A Well, it sank I think because when, when
4 the fire boats are spraying it, they're filling it
5 with foam and water. So the only thing that was
6 left was just the hull. And then it just kind of
7 collapsed into the water.

8 Q It had burned to the water line completely
9 or was part of the freeboard --

10 A Correct. So it had burned, from what I
11 recall, it had burned pretty much to the freeboard.
12 So there was no, there was no deck left. There was
13 no boat left except the hull and all the debris that
14 was in it.

15 But the freeboard is probably about five
16 plus feet. And the depth of the water at low-tide
17 there is about 5, 6 feet. So it had sunk and was
18 just sitting on the bottom. So you could see the
19 top of the freeboard just sticking out of the water,
20 but the rest of the boat was submerged at that
21 point.

22 Q Was the interior of the burnt vessel
23 filled with water when you saw it?

24 A Well, debris and water. It was just a
25 black, charred mess. It didn't look like a boat

1 that had a second or third story.

2 Q Do you recall the draft of that particular
3 boat?

4 A I think it was 4'10.

5 Q This is going to sound like an odd
6 question, but I was confused by one of your first
7 answers.

8 You said there was a woman you were living
9 with, and then you met another woman and lived with
10 her, but then you also talked about your wife.

11 A No. No.

12 Q I was just a little confused.

13 A I'm glad my wife is not here. Is that off
14 the record? So, no.

15 So I lived with a woman for a number of
16 years and then -- can I go off the record for a
17 second?

18 MR. HARTMAN: Sure.

19 - - -

20 (Discussion off the Record.)

21 - - -

22 BY MR. HARTMAN:

23 Q We can go back on.

24 When you say you don't perform the
25 maintenance on the boat, you literally do absolutely

1 nothing on the boat yourself?

2 A No. I check every time I'm there. I
3 check the strainers, I check the fluids, I check the
4 bilge for any water or oil or anything else. I
5 always keep oil pads under the engines just in case
6 to catch any oil dripping or anything else like
7 that.

8 I'll do preventive maintenance like making
9 sure that, you know, like the screws are tight on
10 the rub rail or on the, you know, bow rail. Things
11 like that. But I will not do any extensive repairs
12 on the engines or the HVAC or anything like that.

13 Q Do you have a pre-start checklist that you
14 go through that's in writing?

15 A The question -- right now I don't, but on
16 that particular vessel I had a very comprehensive
17 safety binder that I would give my guests.

18 I don't remember if there was a pre,
19 pre-start checklist in there or not. But I have a
20 pre-start checklist in my head. I do the same thing
21 every time.

22 Q And what is that?

23 A So usually when we get to the boat, we're
24 not taking it out right away. Usually we'll get
25 there in the afternoon and stay the night, and the

1 next day we'll take it out.

2 So all the breakers go on. I go down and
3 I check all of the seacocks to make sure that
4 everything is open properly. Anything that I
5 closed, I reopen. I check all of the strainer
6 baskets to make sure they are free of debris and
7 clean. If they need to be cleaned, I'll open them
8 up, clean them, put them back in. I check the oil
9 in both engines, and then I check under the engines,
10 as I mentioned, to see if there's any drops. I
11 always check my safety equipment, make sure that the
12 life jackets are where they're supposed to be. I
13 check the tie-down straps for the tender, make sure
14 that's secure.

15 And then when I power up at the helm, I
16 check all of my systems. I check my radar, I check
17 to make sure that the charts are working properly,
18 loading properly. And that usually covers me.

19 Q Okay. And when you're underway, what sort
20 of gauges are available for you to determine what
21 load may be on the engines and the batteries?

22 A So I think they call it a "vessel view."
23 I don't remember if that's the term that they use,
24 but there's a touch screen on the boat that will
25 give you most of your systems. And I had that set

1 so that it would run through all the different
2 screens on a regular basis so I could, you know, see
3 them. Sometimes I would keep up on one of the
4 screens the systems screen, because that's one of
5 the options that you had.

6 And then, you know, if there's an error,
7 you get an alarm code. It starts making noise and
8 beeping.

9 Q Do you remember during that two-week trip
10 you took in July of 2016 whether or not any error
11 codes came up on that system?

12 A I don't recall.

13 Q When you go down to the boat and you are
14 not going to leave until the next day, do you
15 generally run on shore power or generator?

16 A When we're on the boat?

17 Q Yeah.

18 A Shore power. You don't run the generator
19 at the marina. I'm sure you --

20 Q It's rude, but a lot of people do it.

21 A Oh, they do? Yeah. I think there may
22 have actually been a rule at that marina you can't
23 run a generator.

24 Q Do you remember when the generator --
25 excuse me -- when the battery chargers were

1 replaced, do you remember the old and new brands of
2 the generator?

3 MR. O'DONOVAN: Battery chargers.

4 MR. HARTMAN: Oh, battery chargers.

5 A Gotcha. I just remember the old ones were
6 green and the new ones were white. That's the best
7 I can do for you. If you gave me brand names, it
8 might jog my memory, but I don't recall.

9 Q I wouldn't know. Did it appear to be from
10 a different company, just rather than --

11 A Yeah.

12 Q It did?

13 A It did seem to be a different brand
14 because they looked very different.

15 Q Okay. And those new ones were replaced by
16 CYC?

17 A Correct.

18 Q And I think you already testified that
19 once they did that work, there was no longer any
20 problems with battery chargers?

21 A Not that I recall.

22 Q Okay. You talked about the starboard
23 engine having a heavier load on it; is that correct?

24 A Uh-huh. Correct.

25 Q Is the starboard engine counter-rotating;

1 do you know?

2 A I don't know which one. No. I don't
3 think so. I think on pods, and again you are going
4 to have to ask the experts for this one, but I think
5 on the pods because there's two propellers on each
6 pod, it's not like a typical shaft-propulsion system
7 where one is counter-rotating -- one goes clockwise,
8 the other goes counter-clockwise because there's two
9 on each one. I think they operate similarly --

10 Q Okay.

11 A -- is my understanding.

12 Q And did you bring that to the attention of
13 CYC?

14 A No, because this would be their area of
15 expertise.

16 Q But I mean did you make it known to them?

17 A That there was a load issue?

18 Q Yes.

19 A Yes. Absolutely.

20 Q I saw an email between you and Nick Harvey
21 and Olivier Grossin of Jeanneau. Were there any
22 other communications that you had with Jeanneau
23 directly?

24 A I believe Olivier was out to the boat one
25 or two times and I know I saw him there at least

1 once, because he was involved, very involved in the
2 battery issue. Because my understanding was all of
3 that needs to run through the manufacturer because
4 it's all warranty-related issues.

5 I would see Nick at boat shows, and I may
6 have had some other email communication with him,
7 but I don't recall anything specific.

8 Q Do you remember ever making a specific
9 warranty claim directly to Jeanneau as opposed to
10 just CYC?

11 A No. Not to my knowledge.

12 Q Did you ever at any time prior to the fire
13 retain counsel to assert claims either against CYC
14 or Jeanneau?

15 A No.

16 Q And you currently own a Jeanneau 630; is
17 that correct?

18 A Correct.

19 Q Is that the very next boat you bought
20 after the 550?

21 A Yes. We were going to buy the 560 and
22 then I decided to add more money to it and upgrade
23 to the 630.

24 Q And you also bought that from CYC;
25 correct?

1 A Correct.

2 Q Okay. There was a list of personal
3 property that was on the boat that was damaged; is
4 that correct?

5 A Correct.

6 Q Okay. Was there anything that you recall
7 in that list that wasn't just something you normally
8 put on your boat?

9 A I'm not sure I understand the question.

10 Q Let me see if I can -- for my boat over
11 there, I would have foul-weather gear on it, lines
12 and all kinds of other things that weren't
13 necessarily on the boat, but are part of the boat.

14 Did you have anything in particular on the
15 boat that was not part of any boat you would
16 normally bring on?

17 A Not to my knowledge.

18 Q What is your belief that your refrigerator
19 is hardwired to the battery and not through a
20 breaker?

21 A Well, it may have a breaker, but my
22 understanding is that it runs always. Even if you
23 turned all -- there's no refrigerator breaker in the
24 breaker panels or 110s.

25 Q Is that true on your 630 also?

1 A Yeah. It may be somewhere, but I'm not
2 aware of it.

3 Q Okay. The humidifier to which you
4 referred, is that part of the integrated air
5 conditioning system?

6 A Yes.

7 Q That's not something you brought in and
8 plugged it?

9 A No.

10 Q And you're shaking your head no. Okay.
11 Got it.

12 You mentioned that you would -- on a
13 couple occasions there was a sulphur smell that you
14 believed turned out to be the battery fluid
15 depleting; is that correct?

16 A Correct.

17 Q How often did that occur?

18 A It occurred a number of times until they
19 replaced the batteries.

20 Q Okay. And it didn't occur after that; is
21 that correct?

22 A Not to my knowledge, no.

23 Q Sitting here today, do you have any
24 opinion, whether your own or from anyone, any third
25 person other than any conversation you had with your

1 attorney, as to the actual cause of this fire?

2 A No.

3 MR. HARTMAN: Okay. Thank you. I'm done.

4 Do you have any follow-up or?

5 MR. SCHIERLOH: I have a few. Off the
6 record.

7 - - -

8 (Discussion off the Record.)

9 - - -

10 BY MR. SCHIERLOH:

11 Q Back on the record. Good afternoon, Mr.
12 Port. I just have a few follow-up questions from
13 your earlier testimony.

14 Actually, what I would like to do is I
15 would like to show you what was marked Bates Number
16 XL-01320133. I would ask you to take a look at
17 those two documents and let me know if you can
18 identify what those are.

19 A These were the various totals for the
20 items that were lost on the boat.

21 Q Okay.

22 A And then of course there's one for the
23 tender.

24 Q All right. And it looks -- what is shown
25 for a total of personal property damage?

1 A \$63,197 and 2 cents. Boat gear, galley
2 items, clothing, bedding, miscellaneous, and then
3 the tender.

4 Q Okay. And did you support -- provide
5 supporting documents, receipts to your underwriter?

6 A I did.

7 Q Okay.

8 MR. SCHIERLOH: Let's mark this as Port
9 Number 6.

10 (Port Exhibit Number 6
11 was marked for identification.)

12 BY MR. SCHIERLOH:

13 Q I would like you to look at Bates stamped
14 XL-2601. Are you able to identify what that
15 document is?

16 A Watercraft Marine Insurance Policy
17 Declarations page. So this looks like the
18 declarations page for the insurance for Home Port.

19 Is there anything in particular you want
20 me to --

21 Q No. I just wanted to ask you about some
22 of the coverage amounts that are in the document.

23 A Sure.

24 Q Do you see there's the whole coverage
25 agreed value of \$1,324,000?

1 A Correct.

2 Q Okay. Was that what you paid for the
3 vessel?

4 A Correct.

5 Q Okay. In addition there's a personal
6 property coverage with a \$10,000 limit. Do you see
7 that?

8 A I do.

9 Q Okay. Your personal property damage
10 exceeded that amount; correct?

11 A Correct.

12 Q Okay. Did you receive \$10,000 from XL for
13 the personal property that was damaged?

14 A Yes, I did.

15 Q Okay. In addition to that, what other
16 funds did you receive from XL with respect to the
17 loss of the Home Port?

18 A So the agreed value, the personal property
19 and then another, another amount of money that was
20 supplemental to get us to the cost of replacing the
21 boat with a new model.

22 So I think it was about 140 some odd
23 thousand dollars.

24 Q Would that have been \$140,000 in addition
25 to the \$1,324,000?

MICHAEL PORT - 03/13/2019

Page 83

1 A Correct. Because the price of the, to
2 replace that model was about 1.5 million and change.

3 Q Okay. In addition to that you had a
4 tender that was attached to your vessel; correct?

5 A Yes.

6 Q Did you receive any funds for that?

7 A Yeah. The \$20,000 -- where is it?
8 \$20,245 is what I had claimed. And I think I
9 received 20,000 for it, if I recall correctly. Was
10 that the limit? I don't think it's on this one.
11 But I believe it was \$20,000.

12 Q Okay.

13 MR. SCHIERLOH: Can you mark this as Port
14 number 7?

15 (Port Exhibit Number 7
16 was marked for identification.)

17 BY MR. SCHIERLOH:

18 Q Okay. I would like to kind of circle back
19 now to the boat itself and the various issues that
20 had been experienced between the time you took
21 possession of the vessel.

22 First of all, do you recall when you took
23 possession of the vessel?

24 A Yes. At the end of March in 2015 I
25 believe or '16. I don't remember. I bought it

1 in -- we signed the papers at the end of -- in
2 December. So I guess that's '15. And then '16 is
3 when we took delivery in March, end of March.

4 Q Okay. There were some documents in the
5 production from Chesapeake Yacht that indicated you
6 took possession on March 25th of 2016. Does that
7 seem right?

8 A That sounds correct. Yeah. That sounds
9 correct.

10 Q So you had autopilot on your vessel?

11 A Yes.

12 Q Did you have any problems with the
13 autopilot?

14 A Yes.

15 Q What problems did you have with that?

16 A I could not get the autopilot to follow a
17 course properly. I could get the autopilot to
18 maintain a heading, but not follow a course. So
19 there were issues with the autopilot and how it was
20 connected to the chart plotters.

21 And I do believe they attempted to fix it,
22 but I don't think it was ever fixed properly or
23 fully.

24 Q Okay. Was that an issue that you had
25 brought to the attention of Chesapeake Yacht?

1 A Correct.

2 Q Okay. And it's your recollection that the
3 issue was never resolved?

4 A Correct.

5 Q Were any repairs performed on the vessel
6 during the period of time that you were in
7 possession of it that you paid for out of pocket?

8 A No.

9 Q Were all the issues that you experienced,
10 were they covered by a warranty?

11 A Correct.

12 Q Okay. And do you have knowledge of whose
13 warranty covered those issues?

14 A Yes. The manufacturer.

15 One thing I would say, the only thing --
16 there was a couple things I added. Like I added a
17 fusion stereo. So that, I paid out of pocket for
18 that because it was an addition, it wasn't a repair.
19 A couple little things like that I think I had added
20 on as extras. But, no, everything else was from
21 my -- it was under warranty.

22 Q And for all the warranty work, who did
23 you -- strike that.

24 For all the warranty work who did you deal
25 with?

1 A Chesapeake Yacht Center.

2 Q Okay. Did you ever deal with Jeanneau for
3 anything?

4 A Not directly.

5 Q Okay. You talked about your process for
6 when you would leave your vessel at the dock for any
7 extended period of time when it was shut down.

8 How was the vessel secured?

9 A To the dock?

10 Q No. Was it locked?

11 A Oh, yeah, yeah. So the vessel was always
12 locked. The cabin doors are where you would enter,
13 there was a spare key kept in a lockbox on one of
14 the fuel tanks inside of the engine room, so that
15 when Chesapeake Yacht Center went there they could
16 access the key to get the code. They actually put
17 the lock box there.

18 And otherwise the boat was, was never left
19 open.

20 Q Who had the code to the lockbox?

21 A Chesapeake Yacht Center. And then if they
22 sent somebody to the boat, say Cummins, I imagine
23 they would give Cummins the code as well.

24 Q Did you ever give anyone the code?

25 A Not to my knowledge.

1 Q Just going back to the, you said you had a
2 stereo put on the vessel?

3 A Correct.

4 Q Who was that installed by?

5 A Chesapeake Yacht Center.

6 Q Okay. I would like you to take a look at
7 what was previously marked as Port Number 3.

8 A simple question on this is this is a
9 document purportedly prepared by Mr. Dobb is my
10 understanding. I just want to know as you sit here,
11 do you know if these dates that are indicated on
12 each of these pages are in fact accurate?

13 A No.

14 Q Now, earlier you discussed some various
15 electrical issues that you had experienced with the
16 vessel. Did you have these problems while the
17 vessel was underway?

18 A Generally the electrical problems were not
19 when we were underway. Generally we saw the
20 electrical issues when we were either at the dock or
21 when we were on the hook, you know, when we had the
22 anchor out and we were just in a cove somewhere.

23 Outside of the load issues on the engine
24 or the, you know, sometimes we would get that alarm
25 for the starboard engine. I would have to shut down

1 the engine while we were underway and then start it
2 back up again. Of course I take weight off, I
3 wouldn't be, you know, if I'm planning to shut down
4 the engine.

5 Q What about the generator shutting off?

6 A That's -- well, we only used -- so the
7 generator would do that when we discovered -- put it
8 this way -- when we were on the hook is when we had
9 that issue primarily. I didn't have that issue
10 while we were underway running the generator.

11 Q Okay. What about the stove turning on and
12 off on its own?

13 A Same thing. In large part because, you
14 know, we don't use the stove while we were underway,
15 so I wouldn't know if it would do the same thing
16 then.

17 Q And you --

18 A But we did have that issue, too, while we
19 were hooked up to shore power.

20 Q Okay. You indicated earlier that the VHF
21 had an issue where it would go on and off by itself.
22 Was that --

23 A Yeah. Usually on by itself and then I
24 would have to turn it off.

25 Q Okay. Was that an issue that would occur

1 while the vessel was either on the hook or at the
2 dock or underway --

3 A That was when the vessel was off and the
4 electronics were off is when that would occur.
5 Because if the electronics were on and the vessel
6 was on, I would be underway and the radio, the VHF
7 would be on because I was underway.

8 So the only time that would happen is when
9 we weren't underway and the boat was not on.

10 Q So would it be fair to say that would be
11 at the dock?

12 A Correct.

13 Q Okay.

14 A At the dock or on the anchor.

15 Q You had stated earlier that if -- I don't
16 want to misquote you, but it was along the lines of
17 if not for the service you had received from
18 Chesapeake, that you would've been screaming bloody
19 murder.

20 A Yeah.

21 Q Can you elaborate on that? What do you
22 mean by that?

23 A Well, you know, I do understand that new
24 boats are going to have some kinks to work out, but
25 the number of issues that we had with this vessel

1 were I think extreme, and consistent, and often
2 catastrophic; catastrophic oil failure, catastrophic
3 shearing of a prop, a shearing of a shaft losing
4 props, the load on the engine, the battery chargers,
5 the catastrophic loss of the batteries. So all of
6 these complete failures to me are, are not typical.

7 But, because Chesapeake Center was so good
8 about dealing with them, you know, they, they were,
9 they were attentive, they took care of it. If they
10 weren't, that's when I would have been up in arms
11 about it.

12 Q After the vessel burned you purchased
13 another Jeanneau vessel; correct?

14 A Correct.

15 Q Did you have any concerns about buying
16 another Jeanneau?

17 A I did. So, I -- we had some concerns. I
18 was looking at some other boats. But we decided to
19 stay with Prestige for two reasons primarily. One
20 was I felt very good about working with Chesapeake
21 Yacht Center, and when you buy a new boat,
22 especially a European boat in this area, getting
23 service is very difficult. And they had given me
24 such good service, that I felt they'll continue to
25 take care of me, and frankly if your boat burns

1 down, I imagine they're going to take even better
2 care of you going forward. So that was one issue.

3 The second reason was my wife had spent a
4 season boating with me on our Sea Ray and then this,
5 and then the time we had with the 550 and she had
6 just really learned the systems on the 550, and I
7 had just really, you know, I think mastered the
8 systems on the 550. And if we went to a different
9 vessel and a different brand, we would have had to
10 learn the whole boat all over again.

11 I just wanted to keep it easy also for
12 her. To try to just get back into boating without
13 another learning curve for her, because it was very
14 important to me that she was comfortable.

15 So those are the two primary reasons. I
16 did have some concerns and then I also figured this
17 happens to boats every once in a while. I'm sure,
18 you know, most brands have had an issue like this.
19 But then I just heard about a boat that caught fire,
20 a Prestige 500 this spring on the ICW. It was
21 actually just a couple days after I had been down
22 the ICW taking the boat to Florida, and someone
23 posted it in the Prestige yacht owners group, and
24 that was a little bit scary.

25 Q When I was reviewing documents that were

1 produced by Chesapeake, there's an email regarding a
2 chain count. Do you recall any issues with a chain
3 count?

4 A Oh, yeah. The chain counter wasn't
5 working properly and required fixing and that they
6 did fix.

7 Q What is a chain counter?

8 A A chain counter just tells you how much
9 chain you have out. So you can, it can be in feet
10 or meters, whatever you prefer. It gives you how
11 much scope you have out.

12 Q Is it a display?

13 A Yeah. It's a little display that has a
14 LED screen and it just gives you the numbers. It
15 just counts it off.

16 Q What was the issue you were having with
17 that?

18 A It was just wrong. It was just dead
19 wrong. So I would have, you know, maybe 50 feet out
20 and it would tell me I had nine feet out. It was,
21 it was just wrong.

22 MR. SCHIERLOH: That's all I have for now.
23 Thank you.

24 BY MR. O'DONOVAN:

25 Q Can I just -- I have a couple of brief

1 follow-ups.

2 The stove, when you went through a list of
3 things that, breakers and things that you would turn
4 off when you were connected up to shore power, was
5 there a breaker associated with the stove?

6 A Yes.

7 Q Did you turn it off?

8 A Yes.

9 Q Then you mentioned a discussion you had
10 with somebody from Jeanneau about the batteries,
11 Olivier?

12 A Olivier, yeah.

13 Q Where did you talk with Olivier about the
14 batteries?

15 A I don't know. I'm not entirely sure. I
16 do -- he was on the boat, but I'm not sure if he was
17 on the boat for that reason or for some other
18 reason. There's been obviously a number of
19 different issues.

20 But I knew that they were in very close
21 contact with Olivier during this issue with the
22 batteries and the battery chargers, because it's
23 such a significant electrical issue and he would,
24 you know, amongst this group of people have the most
25 knowledge or experience to offer.

1 Q When you referred to "they," that's CYC
2 you're talking about; right?

3 A Correct. CYC and Jeanneau Prestige.

4 Q Okay. Did he tell you -- what did Mr.
5 Olivier tell you about the batteries and the battery
6 chargers? Do you remember?

7 A Nothing that was of any significance or
8 note. He was just trying to figure it out. He
9 didn't really understand why we were having these
10 issues.

11 Q Okay. Did you, after the battery chargers
12 and the batteries were replaced, do you recall
13 having any further discussions with Olivier about
14 that?

15 A Not that I recall.

16 MR. O'DONOVAN: That's all.

17 MR. HARTMAN: Nothing further from me.

18 MR. SCHIERLOH: One more.

19 BY MR. SCHIERLOH:

20 Q Mr. Port, do you think you would in the
21 future buy another Jeanneau vessel?

22 A No.

23 Q Why not?

24 MR. O'DONOVAN: It's the classic lawyer.

25 One more question. He just asked you a second one.

1 MR. SCHIERLOH: Columbo.

2 THE WITNESS: No. I don't think I would.

3 There's a couple reasons. One --

4 MR. HARTMAN: I object to the line of
5 questioning before we go further. Speculation. It
6 has nothing to do with anything, but you can answer.

7 A Okay. One, I'm not crazy about the next
8 models up, so if I was going to buy a new boat,
9 usually you would go upgrade to the next one.

10 And I do have some concerns about the
11 manufacturing quality overall. I think the way that
12 I heard it described is they do just enough. Some
13 brands do everything and then more. So Viking, for
14 example, you know, those boats take a beating.
15 Nordhavn, et cetera.

16 But I think what they're doing with the
17 boats is they're trying to price them very
18 competitively against some of the other brands that
19 are of similar size and style boats. And I think
20 the way they do that is by cutting some costs and
21 cutting some corners and as a result, cutting some
22 costs.

23 That's why I think I feel like they do
24 just enough, but I'm not impressed with it, you
25 know, in any way that makes me feel very confident

1 to continue forward. I guess that would be my
2 answer.

3 MR. SCHIERLOH: Okay. All right. Thank
4 you.

5 MR. HARTMAN: No.

6 MR. O'DONOVAN: Thank you very much.

7 MR. SCHIERLOH: He will read and sign.

8 (Whereupon, at 12:48 p.m., the
9 deposition of MICHAEL A. PORT
10 was concluded.)

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MICHAEL PORT - 03/13/2019

Page 97

1 A C K N O W L E D G M E N T O F D E P O N E N T

2

3

4 I, MICHAEL A. PORT, do hereby acknowledge I
5 have read and examined the foregoing pages of
6 testimony, and the same is a true, correct and
7 complete transcription of the testimony given by
8 me, and any changes or corrections, if any, appear
9 in the attached errata sheet signed by me.

10

11

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20 _____
Date

MICHAEL A. PORT

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MICHAEL PORT - 03/13/2019

Page 98

1 STATE OF MARYLAND)

2 ss:

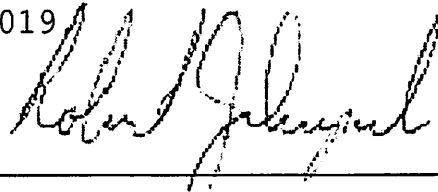
3 ANNE ARUNDEL COUNTY)

4 I, ROBERT M. JAKUPCIAK, an RPR and Notary
5 Public within and for the State of Maryland, do
6 hereby certify:

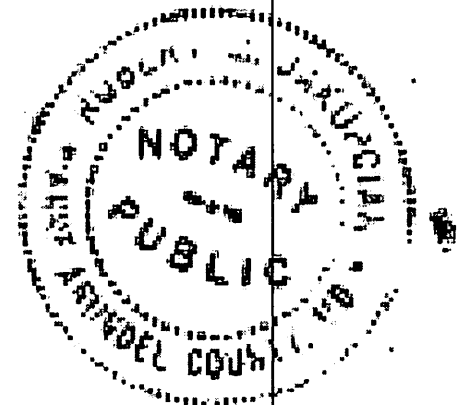
7 That the witness whose deposition is
8 hereinbefore set forth, was duly sworn and that the
9 within transcript is a true record of the testimony
10 given by such witness.

11 I further certify that I am not related to
12 any of these parties to this action by blood or
13 marriage and that I am in no way interested in the
14 outcome of this matter.

15 IN WITNESS WHEREOF, I have hereunto set my
16 hand this 25th day of March, 2019

17 
18 _____

19
20
21 My Commission Expires:
22 October 17, 2019
23
24
25



MICHAEL PORT - 03/13/2019

i1

Exhibits	110s 78:24	27-foot 10:5	6
Port 1 4:13 6:17,19,23	12:48 96:8	28 54:11	6 70:17 81:9,10
Port 2 4:14 51:23,24,25	140 82:22	3	630 77:16,23 78:25
Port 3 4:15 52:16,17,18 58:14	15 55:6 84:2	3 52:17,18 58:14 87:7	7
Port 4 4:16 57:21,22	16 54:11 64:21 83:25 84:2	31 9:11 43:15	7 83:14,15
Port 5 4:18 59:14	16th 64:18,23	31st 22:20	8
Port 6 4:19 81:10	17 58:22	4	80 34:11
Port 7 4:21 83:15	17th 58:23 64:23	4 57:21,22	89-'93 8:14
\$	2	4'10 71:4	9
\$1,324,000 81:25 82:25	2 51:24,25 81:1	42-foot 10:11	99.9 66:13
\$10,000 82:6,12	20 55:9 56:2,13 58:20, 21	420 10:1,14	A
\$140,000 82:24	20,000 83:9	45 10:3	a-half-foot 10:3
\$20,000 83:7,11	2004 10:4	5	ability 6:6
\$20,245 83:8	2013 11:5	5 54:16 59:14 70:17	aboard 7:18 51:2 53:4
\$63,197 81:1	2014 15:25	50 42:15 68:15 92:19	absolutely 14:21 19:2 63:2 71:25 76:19
1	2015 16:4 83:24	50-amp 69:8	access 38:24 86:16
1 6:17,19,23	2016 16:6 51:2 54:16 65:22 74:10 84:6	500 91:20	accompanied 7:2
1.5 83:2	25 53:10 58:19	550 77:20 91:5,6,8	accurate 87:12
100-ton 11:9,11	25th 84:6	560 77:21	

MICHAEL PORT - 03/13/2019

i2

acquired 66:19	amp 68:15	arrived 69:24	88:2 91:12
acting 8:8	Amy 7:23	assert 77:13	backwards 24:12 58:4
actual 80:1	analysis 47:2	assign 18:8	Baltimore 20:15
add 77:22	anchor 23:6 87:22 89:14	assistant 58:1	basically 5:15
add-ons 17:6	Annapolis 11:18 12:1 15:10,24	assume 6:4 62:8	basics 6:16 7:4
added 85:16,19	answering 6:5	assuming 58:12,24	basis 74:2
addition 82:5,15,24 83:3 85:18	answers 71:7	attached 52:11 68:11 83:4	baskets 73:6
additional 52:11	apologize 52:3	attempted 84:21	Bates 80:15 81:13
aft 49:6	apparently 56:13 60:1,5	attention 76:12 84:25	batteries 25:6,9 29:11,14,16, 24 45:2 55:11 56:3,4, 8,19,21,24 57:7,10 58:19,20 59:2 62:22, 24 73:21 79:19 90:5 93:10,14,22 94:5,12
afternoon 63:13 72:25 80:11	appealing 62:1	attentive 90:9	battery 24:22,25 25:1,5 29:6, 7,13,15,24 42:25 55:1,2,10,16,19,23, 25 57:4,10,15 58:12, 24 74:25 75:3,4,20 77:2 78:19 79:14 90:4 93:22 94:5,11
agree 9:17	appeared 38:10 64:17	attorney 63:14,19,21 80:1	battery- associated 56:10
agreed 9:19 64:5 81:25 82:18	appreciated 18:21 60:8	audience 61:24	Bay 16:13,16 65:18 67:24
agreement 52:5,12 67:2	appreciative 60:22	August 9:11 16:6 22:5,20 43:15 51:2 65:3,22	beating 95:14
ahead 14:17 36:5	approx 11:5	automatically 69:3	bedding 81:2
air 79:4	approximately 11:6 34:11	autopilot 44:13 84:10,13,16, 17,19	beeping 74:8
alarm 45:16,17 74:7 87:24	April 53:10	aware 79:2	beginning 59:25
alarms 43:25 44:7,12,15	archive 13:5		
alerted 56:22	area 68:5 76:14 90:22	B	
amount 82:10,19	arms 60:10 90:10	back 5:16 22:3 23:16 25:4 32:23 42:8 43:4 50:4 55:15 58:14 62:18 64:13 71:23 73:8 80:11 83:18 87:1	
amounts 81:22	arrange 40:15,16		
	arrangements 33:25		

MICHAEL PORT - 03/13/2019

i3

behalf 33:22	board 12:10 54:17 55:10	bought 10:10 16:3 51:3 68:22 77:19,24 83:25	burning 25:8,12
belief 78:18	boat 7:19 9:7,10,12 10:12, 14,21,24 11:16,17 12:8 15:4,10,23,24 16:20,22 17:7,25 18:7 19:2,3,5,6,7,18, 22 20:2 21:15,19 22:9,13,16,19,20,23 23:3 24:13,14 25:6 26:11 28:5 29:22 30:18 32:3 33:5 34:10,13,15 35:1,4,9, 14,16 36:1,3,12 37:2, 6,11,22 38:6 39:16, 20,23 40:6,7,8,9,18 41:5,14,17,22,25 42:10,17,19,24 44:9, 13,17,20 45:7,9,13, 17 46:2 49:14 51:3 52:13 53:5 55:16 59:22,23,24 60:5 61:19,20 63:23 64:16 65:4,9,18 66:16 67:7 68:15,22 69:2,11,12, 24 70:13,20,25 71:3, 25 72:1,23 73:24 74:13,16 76:24 77:5, 19 78:3,8,10,13,15 80:20 81:1 82:21 83:19 86:18,22 89:9 90:21,22,25 91:10, 19,22 93:16,17 95:8	bow 72:10	burns 90:25
believed 48:20,25 49:4,11 50:6,12,20 79:14		box 86:17	burnt 9:25 70:22
bell 17:6		brand 75:7,13 91:9	business 9:5 19:13 60:19
berth 41:24 42:4		brands 75:1 91:18 95:13,18	buy 15:7 60:4 61:18,20 66:23 77:21 90:21 94:21 95:8
bet 8:16		brave 69:18	buying 16:22 90:15
bi-weekly 40:19 41:6		break 6:8,12,13,14 39:1 51:12	<hr/> C <hr/>
biggest 42:14		breaker 42:23 44:25 45:4,5 78:20,21,23,24 93:5	cabin 37:24 86:12
bilge 72:4		breakers 73:2 93:3	Caitlin 57:25
bills 33:23		briefing 20:24 21:7,12	calendar 23:17
bimini 26:15 30:23 53:21		briefly 7:24 8:23	call 9:14 20:22 25:19 63:3 73:22
binder 72:17		brilliant 36:16	called 5:4 8:25 9:12 34:16 36:7,17 37:15 46:23
bit 14:17 15:6 36:5 51:11 63:10 67:16,17 91:24		bring 76:12 78:16	camera 61:22
bizarre 47:3	boat's 36:24	bringing 61:23	capacity 5:14
black 70:25	boating 16:17 91:4,12	brought 79:7 84:25	captain 11:13 19:3
blended 22:11	boats 9:21,24 10:16,17,18 12:3,11,13 37:9,14, 15 70:4 89:24 90:18 91:17 95:14,17,19	built 10:4 69:2	captain's 11:3 20:22,23 21:7
blew 38:1		bulbs 30:4,6,7	car 36:19 60:4
bloody 60:24 89:18	boom 46:8	burglar 45:17	card 23:21
blowing 37:11	bottom 46:2 52:8 54:11 61:6 69:24 70:18	burned 9:11,18 22:16,20 57:1 70:8,10,11 90:12	care 7:25 19:16 30:23

MICHAEL PORT - 03/13/2019

i4

60:6,9 90:9,25 91:2 case 72:5 Cassidy 57:25 catastrophic 90:2,5 catch 54:2 69:11 72:6 caught 41:18 91:19 CCTV 39:7,12 Center 5:10 13:7 16:13 17:12 65:25 66:7 86:1,15,21 87:5 90:7, 21 cents 81:1 Century 10:5 cetera 61:20 95:15 chain 92:2,4,7,8,9 change 15:22 68:1 83:2 changed 54:17 changing 54:23 57:4 charge 43:3 58:12 charged 43:5 charger 24:25 25:2 29:24 55:1,11 chargers 24:23 25:5 29:6,7,14, 16 42:25 55:2,17,19, 23,25 57:4,10,15	74:25 75:3,4,20 90:4 93:22 94:6,11 charred 70:25 chart 84:20 charts 73:17 check 7:2 30:1 40:25 56:24 62:23 72:2,3 73:3,5, 8,9,11,13,16 checklist 72:13,19,20 Chesapeake 5:10 13:7 15:9 16:9, 12,17 17:12 26:6 65:25 66:7 84:5,25 86:1,15,21 87:5 89:18 90:7,20 92:1 Chris 8:18 12:18 14:4 50:4, 10 chronology 58:15 59:1 circle 83:18 claim 14:18,20 49:13 77:9 claimed 83:8 claims 77:13 clarifies 69:9 clarify 66:21 68:21 classic 94:24 clean 40:10 48:6 73:7,8 cleaned 73:7	cleaning 41:2,12 clear 9:9 64:15 clockwise 76:7 clogged 43:24 close 34:18 37:5 93:20 closed 73:5 closer 31:10 37:3 clothing 81:2 coast 10:23 11:2 24:5 46:5, 20 47:11,23 48:12 code 74:7 86:16,20,23,24 codes 74:11 Coleman 17:19 18:3 collapsed 70:7 collected 13:16 College 8:1 Columbo 95:1 comfortable 43:20 91:14 commend 60:15 commercial 11:13 communication 13:6,9 77:6	communications 9:2 13:6 76:22 communicative 18:15 company 8:25 9:4 14:20 41:2 63:20 66:1 75:10 competitively 95:18 complaints 60:20 complete 90:6 completely 70:8 comprehensive 72:16 concern 13:3 concerns 90:15,17 91:16 95:10 concert 32:16 concluded 96:10 conditioning 79:5 conditions 52:11 confident 95:25 confused 71:6,12 connect 41:18 connected 42:19 44:12,14 45:1 62:23 84:20 93:4 considered 12:14 consistent 90:1
--	--	---	---

MICHAEL PORT - 03/13/2019

i5

contact 17:21 18:8 36:11 93:21	49:15 51:3,4,7,8 55:8,18 56:1,16 59:6 62:6 64:18,22,25 65:1 68:13 69:6,8 70:10 75:17,23,24 77:17,18,25 78:1,4,5 79:15,16,21 82:1,4, 10,11 83:1,4 84:8,9 85:1,4,11 87:3 89:12 90:13,14 94:3	covered 85:10,13	61:2 66:5,14 68:25 75:16 76:13 77:10, 13,24 94:1,3
contacted 40:23 47:19		covers 73:18	
contacting 60:11		cracked 26:15	D
continue 28:14 29:15 90:24 96:1	correctly 28:7 83:9	cracking 26:5	damage 80:25 82:9
continued 44:16	cost 82:20	crazy 95:7	damaged 78:3 82:13
continuing 33:4	costs 95:20,22	create 68:3	dates 87:11
contract 33:22 66:22	counsel 5:6 77:13	created 52:22	Dave 32:12,15
contracted 66:5	count 92:2,3	credit 23:21	day 19:10 73:1 74:14
contractor 61:17	counter 92:4,7,8	crowds 46:12	days 91:21
conversation 79:25	counter- clockwise 76:8	cruise 19:21,23 20:5	dead 92:18
conversations 15:13 64:2	counter-rotating 75:25 76:7	Cummins 20:23 21:1,4,9,10 27:2 33:17,24 55:6 86:22,23	deal 59:25 60:11 85:24 86:2
copies 14:5,12	counts 92:15	curious 8:11	dealer 16:13 60:9
cord 68:11,17 69:4	couple 5:12 12:16 15:12 18:11 30:17 31:4,19 38:3 40:13 58:7 59:19 79:13 85:16,19 91:21 92:25 95:3	current 8:23	dealing 90:8
cords 68:14	courses 62:20	curve 91:13	dealings 17:13 51:6
corners 95:21	court 5:18,25 34:7	curves 67:21	dealt 16:10
Corporate 60:23	cove 23:5 87:22	customer 60:20	debris 70:13,24 73:6
correct 6:25 7:3,8,19,20 9:5 10:13,22 13:24 15:15 16:5,7,18 18:10 22:21,24 24:7,10 29:9,12 30:22 31:16 32:4 34:2,16 35:22, 24 38:15 39:13 41:11,23 42:14 43:17 44:21 45:6 48:8	coverage 81:22,24 82:6	cut 37:6 69:18,23	December 84:2
		cutting 95:20,21	decent 61:23
		CYC 5:10 6:17 17:12,13 28:14 33:14,20,23,24 34:1 39:24 40:15,17 51:3,7 52:23 60:6,14	decided 77:22 90:18
			deciding 15:7
			decision

MICHAEL PORT - 03/13/2019

i 6

19:19	detectors	dockmaster	E
deck	45:7	36:7 38:9 46:17,18	
70:12	determine	dockmaster's	earlier
declarations	31:25 73:20	37:17	5:19 62:19 68:10
81:17,18	died	docks	80:13 87:14 88:20
DEFENDANT	30:5,7	37:1	89:15
5:6	diesel	document	early
degree	11:20	52:22 57:19 81:15,22	32:11
8:4,6	difficult	87:9	easily
delivery	90:23	documentation	38:25
20:10 34:10 67:3,6	difficulty	13:13	easy
84:3	32:6	documents	91:11
demo	direction	10:10 12:24 51:10	Ed
34:15	68:2	64:16,20 66:20,24	63:13
department	directly	80:17 81:5 84:4	educating
17:23	45:1 66:6 76:23 77:9	91:25	18:20
depending	86:4	dollars	education
68:1	discoloration	82:23	7:25 11:12,14
depleting	26:2 30:20	doors	elaborate
79:15	disconnect	86:12	89:21
depose	45:4	draft	electrical
35:6	discovered	71:2	11:22 42:21 43:2
deposit	36:25 88:7	drain	62:20 87:15,18,20
17:1	discussed	28:20,21	93:23
deposition	12:23 87:14	drift	electrical-type
5:13,16 7:17 12:17	discussion	69:19	33:8
51:17 62:4 64:2,3	32:20 50:1 59:10	drifted	electronic
96:9	62:15 64:10 71:20	69:21	11:22
depth	80:8 93:9	dripping	electronics
70:16	discussions	72:6	89:4,5
describe	48:11 50:13,19,22	drive	email
67:15	94:13	16:23 36:21	14:13 58:11,22 59:20
describing	display	drop	76:20 77:6 92:1
67:22	92:12,13	23:6	emails
description	division	drops	12:25 13:3 14:8 58:2,
21:20	18:1	73:10	3 60:17
designation	Dobb	drove	employed
42:3,7	17:15 87:9	36:19	9:3
detail	dock	duly	employment
29:3	35:16 37:11 39:6	5:4	8:24
detailed	47:1,6 50:9 69:19,22		enclosed
14:24	70:1 86:6,9 87:20		68:6
	89:2,11,14		

MICHAEL PORT - 03/13/2019

i7

end 16:3 29:19 37:12 64:24 65:2,3,15 67:14 83:24 84:1,3	EXAMINATION 5:6	extensively 14:24	61:5,11,12,13,14
ended 65:15	examined 5:5	extent 14:10	fetch 68:2,5
endorsement 11:10,18	exceeded 82:10	extras 85:20	fiberglass 25:18 30:20
engine 11:21 26:19,20 28:6, 11 31:3 32:2,25 34:8 49:6 56:3 75:23,25 86:14 87:23,25 88:1, 4 90:4	exception 33:12	extreme 90:1	figure 94:8
engines 10:8 21:2,8 28:12 31:9 33:18 34:9 72:5, 12 73:9,21	excuse 74:25	eye 20:3	figured 47:21 91:16
English 49:3	executive 61:15	<hr/> F <hr/>	filled 70:23
entail 13:22	exhibit 6:17,19,23 51:25 52:18 57:22 59:13,14 81:10 83:15	fact 55:3 87:12	filling 70:4
enter 86:12	expect 60:2	fail 43:25	filmed 61:5
entered 66:22	experience 9:7 61:22 93:25	failed 53:19	find 13:12 22:3 37:18 47:20
entry 53:10 55:3	experienced 83:20 85:9 87:15	failure 90:2	fine 31:2 48:2
equipment 42:21 73:11	experiencing 62:21	failures 90:6	finished 5:21 36:16
error 28:9,12 32:25 74:6, 10	expertise 76:15	fair 89:10	fire 7:18 16:6 30:12,18 32:7,10 34:9 36:2,6, 13,24,25 37:3,15,21 38:10,14 39:17,21 41:18 45:20,22,25 46:5,15,16,22 47:2,6, 11,16 48:17,18,21 49:5,11,18,20 50:5, 10,12,21 51:2 65:3, 10 69:11 70:4 77:12 80:1 91:19
erupted 37:4	experts 31:11 76:4	fairly 32:1 43:15	fireball 38:5
erupting 37:21	explain 7:10 18:16 20:9 49:10	familiar 5:15	fires 12:10
essentially 64:24	explained 20:2	family 22:11 39:16	fit 42:11,12
estimate 34:22	explanation 31:7	fee 7:1,2	five-footers 67:23
European 90:22	exposure 67:13	feel 27:15 43:18 67:25 95:23,25	fix 28:2 33:12 84:21
	extended 86:7	feet 42:15 67:19 70:16,17 92:9,19,20	
	extensive 14:15 72:11	felt 63:1 90:20,24	
		Fenn	

MICHAEL PORT - 03/13/2019

i8

92:6 fixed 25:16 26:9 30:12 31:5,14,23,24 32:7, 10 33:5 54:1,12,21 58:13,19 84:22 fixing 92:5 floating 70:1 Florida 16:21 91:22 fluid 79:14 fluids 72:3 foam 70:5 folder 13:17 folders 13:15 folks 38:3 39:24 41:4 60:24 follow 21:4 63:15 84:16,18 follow-up 80:4,12 follow-ups 93:1 forever 38:24 formal 10:24 47:12 fortunately 37:10 forward 91:2 96:1 foul-weather 78:11	found 18:16 frankly 40:12 51:22 54:9 90:25 free 73:6 freeboard 70:9,11,15,19 frustrated 59:22 fuel 86:14 fully 84:23 funds 82:16 83:6 fusion 85:17 future 94:21 <hr/> G <hr/> galley 32:3 81:1 gasket 27:19,20 gauges 73:20 gave 27:2 46:18,19 47:24 50:9 75:7 gear 78:11 81:1 general 12:2 17:13 21:20 53:6,7 generally 43:20 74:15 87:18,19 generator 27:5,12 31:17 54:18, 21 74:15,18,23,24	75:2 88:5,7,10 get all 60:20 give 9:23 20:23 21:19 24:16 38:9 47:12 65:12 72:17 73:25 86:23,24 giving 47:1 glad 71:13 Glendinning 69:2 good 5:8 36:15 37:14 51:12 54:1 60:9 63:13 80:11 90:7,20, 24 Googled 62:3 Gotcha 64:1 66:19 75:5 GPS 44:14 grad 8:10 graduate 8:13 great 39:4 60:6,14 greatest 19:9 green 75:6 Grossin 76:21 group 91:23 93:24 Guard 10:23 11:2 46:5,20 47:11,23 48:12	guess 6:17 24:11 30:4 38:1 84:2 96:1 guest 35:13 guests 35:10 72:17 guys 51:13 <hr/> H <hr/> Hall 35:17 39:6,10 handling 11:17 hands-on 18:23 19:15 happen 69:20 89:8 happened 34:3 happening 38:4 harbor 20:15 hard 21:5 hardwired 78:19 Hartman 8:13,15 25:24 39:11 51:16 61:10 63:9,12, 14 64:7,12 71:18,22 75:4 80:3 94:17 95:4 96:5 Harvey 13:10 76:20 head 72:20 79:10 heading 84:18
---	--	---	--

MICHAEL PORT - 03/13/2019

i9

heads 5:24	horrible 56:23	imagine 64:22 67:6,11 69:1 86:22 91:1	interview 36:12
hear 36:6	horse 63:25	immediately 23:8,10 36:19	interviewed 36:8
heard 91:19 95:12	horsepower 10:8	impeller 54:17,24	introduced 5:9
heavier 75:23	hot 37:7 43:12,24 69:13	important 42:8 91:14	introductory 12:17
helm 73:15	hour 36:21	impressed 95:24	investigation 48:15
Heroic 8:25	hours 11:11 20:11 34:9,11, 19 36:22 45:21,24	incident 32:13	invoices 14:11,19
hesitant 69:12	house 22:12 41:14 45:24 56:3	indicating 26:6	involved 18:23 77:1
hiatus 23:1,9	huh-uh 12:4 13:21 15:5 57:18	information 46:19	issue 18:20 26:8,13 30:17 31:3,17 32:5,9 44:4, 11 54:8 56:22 58:12 76:17 77:2 84:24 85:3 88:9,18,21,25 91:2,18 92:16 93:21, 23
high 7:25	hull 25:20 70:6,13	initial 63:17	issues 12:7 24:13,17,22 25:11,15,18 26:14,18 27:5,10,14,15 33:8 59:24 60:12 77:4 83:19 84:19 85:9,13 87:15,20,23 89:25 92:2 93:19 94:10
higher 26:19	humidifier 43:11 79:3	inside 37:24 40:9,10 41:14 86:14	items 80:20 81:2
hired 66:6	hundred 34:18 65:6 67:19	installed 87:4	
hit 27:1	HVAC 43:11 72:12	insurance 14:18,20 49:14 63:20 81:16,18	
Hold 64:4	hydraulics 27:25	integrated 79:4	
holding 54:8		intend 35:6	
hollering 63:11		intensity 37:4	
Home 7:19,21 9:8,9,10,12, 14,16,20,25 10:11,20 13:1,4,25 14:11 15:1, 8 16:11 17:14 19:20 33:9 51:1,2 52:5,24 55:16 81:18 82:17	I	intention 11:12	
hook 87:21 88:8 89:1	ICW 91:20,22	interaction 34:3	jackets 73:12
hooked 88:19	idea 34:8 38:10 61:22	interested 46:12 54:10	Jeanneau 10:18,21 13:10 60:11 61:15 63:14 67:10 68:25 69:1 76:21,22 77:9,14,16 86:2 90:13,16 93:10 94:3, 21
Hope 7:6	identification 6:20 52:1,19 57:23 59:15 81:11 83:16	interior 69:7 70:22	
	identify 80:18 81:14		
	ignore 58:1		

MICHAEL PORT - 03/13/2019

i10

job 60:14	48:24,25 60:21,23 61:21 93:20	LEDS 25:12	living 71:8
jog 75:8	knowledge 16:12 39:8 66:4,8 77:11 78:17 79:22 85:12 86:25 93:25	left 41:17 44:22 45:12 52:8 68:14 70:6,12, 13 86:18	load 26:18,20 31:2 73:21 75:23 76:17 87:23 90:4
Josh 15:13,14 17:11	Kolber 7:10,12	legal 58:1	loading 73:18
joy 20:16		lets 9:16	loads 31:8
July 22:4 29:18,19 54:16, 22 55:6,9,20 56:2,9, 12 58:19,20,21,22 64:18,21,23,24 65:2, 15 74:10	<hr/> L <hr/>	letter 14:4 42:6	lock 86:17
jump 36:5	labor 18:2	license 11:3,15	lockbox 86:13,20
June 54:11	land 67:21	life 73:12	locked 86:10,12
Justin 17:19,25 18:3,10,14, 15 51:6 54:16,21 55:9	large 88:13	lifetime 25:13	log 66:11
	lasted 25:13	light 54:12	logbook 14:25
	Lastly 32:24	lights 25:11 30:4 45:12,13, 15	long 21:22 23:7,8,15 24:8, 20 28:3 29:18 31:15 42:13 48:3 57:13 59:2
<hr/> K <hr/>	laugh 36:14	limit 82:6 83:10	longer 51:11 75:19
Kevin 5:9	lawyer 94:24	lines 37:6 69:18 78:11 89:16	longest 22:18
key 86:13,16	leak 28:4,5 32:9 33:13	list 78:2,7 93:2	looked 64:20 75:14
kicked 33:1	learn 91:10	listen 51:15	losing 90:3
kidding 8:12	learned 91:6	listening 32:15	loss 12:14 36:13 82:17 90:5
kids 22:12 35:4,5,6	learning 91:13	litany 33:7	lost 26:11,25 29:21 80:20
kind 13:20 31:9 48:6 70:6 83:18	leave 8:19 18:8 42:25 43:10 45:15 52:15 58:8,23 68:11 74:14 86:6	literally 71:25	lot 14:22 17:24 35:9 46:12 50:22 61:21 74:20
kinds 78:12	leaving 43:20	live 7:5 19:6	
kinks 89:24	led 53:21 59:20 92:14	lived 7:12 71:9,15	
knew			

MICHAEL PORT - 03/13/2019

i11

love 19:9	74:19,22	memory 38:23 75:8	models 95:8
low 56:24	marinas 24:3 68:8	mention 56:18	money 77:22 82:19
low-tide 70:16	marine 11:22,24 52:12 81:16	mentioned 5:18 32:24 62:19 73:10 79:12 93:9	month 23:11 29:21 65:22
lower 27:22	mark 6:17 51:23 52:16 57:21 59:12 81:8 83:13	mess 70:25	months 21:16
lowering 32:6	marked 6:20,23 52:1,19 57:23 59:15 80:15 81:11 83:16 87:7	message 28:13	moored 38:6 70:1
<hr/> <div>M</div> <hr/>			
made 14:18 19:19 49:13	married 7:7,16	met 7:15 12:18 15:12 19:5 46:13 71:9	morning 5:8 12:19
maintain 14:25 84:18	Marshal 46:22 47:11,16 48:18 49:20 50:5,11	meters 92:10	motor 53:14
maintenance 11:21 66:2 71:25 72:8	massive 38:5	meticulous 19:16	motors 53:17 54:4
majored 8:7	master's 8:4,8 11:9	Michael 5:3 34:24 96:9	move 63:10
make 5:20 15:20,22 33:24, 25 38:23 49:3 60:21, 22 73:3,6,11,13,17 76:16	mastered 91:7	middle 37:24	moved 7:15 37:9
makes 95:25	matter 12:2 64:5	million 83:2	mundane 9:6
making 47:1 72:8 74:7 77:8	Matthew's 32:16	mind 28:18,23	murder 60:25 89:19
malfunctioning 44:10	Matthews 32:12	mine 19:13	mysterious 31:21
manufacturer 77:3 85:14	Mcginley 17:17 18:2 20:20,21 53:11	minor 28:19	<hr/> <div>N</div> <hr/>
manufacturing 26:8 59:23 95:11	meal 12:19	minored 8:7	names 75:7
March 83:24 84:3,6	Meaning 63:25	minute 49:24	navigation 11:25
marina 35:19 38:4,17 39:6 41:22,25 42:9,21 45:20 48:13 69:17	meant 6:9	miscellaneous 81:2	necessarily 11:15 78:13
	members 35:9	misquote 89:16	needed 24:13 26:9 43:3,8 54:1
	memories 65:16	model 82:21 83:2	Nick 13:9 76:20 77:5

MICHAEL PORT - 03/13/2019

i12

night 23:6 72:25	obtained 19:22	origin 48:24,25 49:5,11	papers 84:1
nods 5:24	obvious 32:1	Osprey 35:19 67:17	parent's 22:12
noise 74:7	occasions 79:13	OUPV 11:3	part 14:20 65:17 70:9 78:13,15 79:4 88:13
non-family 35:8	occur 79:17,20 88:25 89:4	outboard 10:5	partner 9:5
Nordhavn 95:15	occurred 65:3 79:18	outlets 43:2	passed 11:2,8
north 16:19	odd 71:5 82:22	over-charging 57:5	passion 19:9
note 94:8	offense 30:24	overheating 25:8	patience 51:19
noted 28:14	offer 93:25	owned 9:21,24 10:17 12:2 24:14 35:20 66:3 67:7	patient 51:14
notice 48:5	oil 28:4,5 32:9 33:13 48:6 72:4,5,6 73:8 90:2	owner 7:21 18:23 19:6,22 60:19	Paul 61:10,11,13,14
number 6:19 7:13 10:7 21:3 23:21 24:22 26:13,18 51:25 52:18 57:22 59:14 71:15 79:18 80:15 81:9,10 83:14, 15 87:7 89:25 93:18	Olivier 76:21,24 93:11,12, 13,21 94:5,13	owners 91:23	pay 48:6
numbers 92:14	onboard 14:23 33:9 55:12 56:4	ownership 15:4 66:24	Penn 61:5
nutshell 67:23	online 23:22	owning 9:7	Pennsylvania 7:6
NYU 8:5,9	open 73:4,7 86:19	owning 9:7	people 13:15 19:17 33:14 38:17 39:19,22 40:6, 7 46:12,25 47:6,8 69:12 74:20 93:24
O	operate 76:9	p.m. 96:8	percent 65:6 66:13
O'DONOVAN 5:7,9 6:21 8:18,22 32:17,22 39:14 50:3 51:20,23 52:2,16,20 57:21,24 59:12,16 61:13 62:12,17 63:6, 15 75:3 92:24 94:16, 24 96:6	operation 10:24	pads 72:5	perform 71:24
object 95:4	opinion 50:9 79:24	pages 87:12	performed 66:2 85:5
	opposed 16:9 77:9	paid 7:23 19:11,12,20 66:23 67:7 82:2 85:7, 17	period 21:15 22:15,25 24:14 65:8,9 85:6 86:7
	options 74:5	panels 78:24	periods 67:1
	organizations 9:1		person 18:22 34:25 40:5

MICHAEL PORT - 03/13/2019

i113

79:25	12,14,17,20,25	53:10	prop
personal	10:11,20 13:1,4 14:1,	pretty	55:6 90:3
14:22 78:2 80:25	11 15:1,8 16:11	22:9 26:25 28:5 38:5	propellers
82:5,9,13,18	17:14 19:20 26:20	48:10 70:11	26:24 76:5
Petra	33:9 34:25 38:7 51:2,	preventive	properly
7:10,12	21,23,25 52:5,16,18,	72:8	54:5 73:4,17,18
phone	21,24 53:17 55:16	previously	84:17,22 92:5
12:21 39:2,3	57:21,22 58:11,14	87:7	property
photographs	59:14 63:6,13 80:12	price	14:22 78:3 80:25
12:25 13:25 14:5	81:8,10,18 82:17	83:1 95:17	82:6,9,13,18
phrase	83:13,15 87:7 94:20	primarily	props
16:23 24:9 41:13	96:9	47:9 88:9 90:19	90:4
pick	port-side	primary	protect
36:8	53:14	17:21 91:15	37:10 46:9
pier	possession	principals	provide
38:7	83:21,23 84:6 85:7	15:15	9:1 66:16 81:4
planning	possibly	printed	provided
88:3	13:9	23:25 58:2	12:24
platform	posted	prior	psychology
27:15,19,21 32:5	91:23	9:8,20,25 10:4,17	8:8
plotters	power	16:1 77:12	public
84:20	41:19 42:20 68:11,	problem	8:25 9:2
plugged	14,17 69:4 73:15	28:20 30:12 31:18	pumping
79:8	74:15,18 88:19 93:4	32:25 33:4 44:16	28:22
pocket	practice	54:24 56:22 57:11	purchase
85:7,17	15:3 41:22 42:22,24	problems	16:2,10 19:20 52:4,
pod	43:6 68:11	27:18 29:15 33:9,12	12 67:2
26:23 31:13 76:6	pre	53:4 54:20,23 55:25	purchased
podcast	72:18	56:10,15 62:21 75:20	10:21 17:7 20:6
36:8,17	pre-start	84:12,15 87:16,18	52:12 90:12
pods	72:13,19,20	procedure	purchasing
26:24 33:20 76:3,5	prefer	48:4	20:3
point	18:10,13 92:10	process	purportedly
35:19 58:10 67:17	prepared	15:7 86:5	87:9
69:17 70:21	87:9	produced	pursued
poles	preparing	92:1	15:17
26:14	64:1	production	put
policy	prerogative	84:5	17:1 25:5,21 29:3
49:14 81:16	18:12	professional	34:18 37:16 46:6
port	Prestige	12:9 36:17 60:7	48:5 73:8 78:8 86:16
5:3,8 6:19,22,23 7:5,	15:11 16:14 41:1,2	promotional	87:2 88:7
19,22 8:23 9:8,10,11,	60:11,23 67:10 90:19	61:18	puts
	91:20,23 94:3		13:15
	presume		
	31:14 41:21 44:19		

MICHAEL PORT - 03/13/2019

i14

Q	ready 15:19	refer 5:11 9:13,16 16:16	repairs 34:1 66:2 72:11 85:5
qualified 63:2	real 6:16 7:4	reference 7:9 54:25 56:12 57:25 61:5	rephrase 6:4 50:7
quality 59:22 95:11	reason 27:2 35:25 56:21 58:16 66:9 68:7 91:3 93:17,18	references 27:18	replace 29:23 55:1 56:5 83:2
question 5:23 6:10 49:3 50:7 64:14 68:20 71:6 72:15 78:9 87:8 94:25	reasons 11:10 18:11 90:19 91:15 95:3	referred 15:23 56:14 79:4 94:1	replaced 25:1,2,4,6,17 26:17 29:8,10,13,14 44:9, 10 53:13,16 54:4 55:3,10,20,24 56:2,4, 6,9 57:9,14 58:19 59:2 75:1,15 79:19 94:12
questioning 95:5	recall 17:5,10 22:19 23:2 26:6 27:16 28:6 29:17 30:19 31:20 33:6,9,10 40:2,8 43:12 52:14 54:18 55:24 56:9 57:16 61:3 65:21,24 66:20, 24 67:5,8,11 68:17 69:14 70:11 71:2 74:12 75:8,21 77:7 78:6 83:9,22 92:2 94:12,15	refreshes 53:3	replacement 55:7
questions 5:12,19 6:3 58:7 59:19 63:15,17 80:12	receipts 81:5	refrigerator 44:19 78:18,23	replacements 54:3
quickly 28:22	receive 82:12,16 83:6	registering 44:15	replacing 82:20
R	received 83:9 89:17	regular 23:3 74:2	reporter 5:18,25 34:7
race 63:25	recognize 52:4	regularly 22:15 35:14	represent 5:10
radar 11:25 25:15 30:16 73:16	recollection 53:3 65:13 68:24 69:20 85:2	relate 13:1	representing 64:5
radio 43:4 89:6	record 6:13,18 32:17,20,23 49:23 50:1,4 51:22 59:10 62:12,15,18 64:7,10,13 66:10 71:14,16,20 80:6,8, 11	related 14:11	request 61:2
rail 72:10	recorded 47:13,15	relation 17:14	requested 21:3
raise 27:22	records 23:13	relationship 63:18	require 14:15
raising 32:6		relative 59:1 67:13	required 24:18 92:5
random 46:25 50:8		relevant 27:4	resolved 85:3
Ray 10:1 91:4		remember 15:12,18 17:10 25:17 27:16 37:18 40:12 42:6 44:2 57:17 67:9 72:18 73:23 74:9,24 75:1,5 77:8 83:25 94:6	respect 16:10 82:16
reach 33:24		reopen 73:5	respectfully 60:17
read 58:6 60:16 96:7		repair 85:18	responsive 60:7

MICHAEL PORT - 03/13/2019

i15

rest 59:8 70:20	19 51:6 52:22 63:3	screws 72:9	shafts 26:22,23
restart 28:12	Ryan's 18:12	sea 10:1 16:24,25 17:3 19:25 43:23 67:15 91:4	shake-down 19:21,23 20:5
result 51:5 95:21	S	seacocks 73:3	shaking 79:10
retain 63:19 77:13	safety 72:17 73:11	Seamanship 11:19 12:1	shallow 67:20
retained 63:21	sank 70:2,3	search 13:23 38:23	share 8:17 27:3
retrieves 69:3	sat 41:10	searching 14:15	sheared 27:1,3 31:13
reviewing 91:25	Saturday 58:9,24	season 26:10 91:4	sheared-off 26:24
Rock 35:17 39:6,10	scary 38:5 91:24	secure 73:14	shearing 90:3
rolled 69:4	schedule 41:9	secured 86:8	Sheerloh 49:22
room 32:2 49:6 63:11 86:14	schedules 22:4	selection 14:19	shifters 20:17
RPMS 26:20	scheduling 36:4	selling 16:14	shoes 19:17
rub 72:10	schematics 42:9	send 14:4 59:20	shore 41:19 42:20 74:15,18 88:19 93:4
rude 74:20	Schierloh 8:20 12:18 49:16,21, 22,23 63:18 64:3,4 80:5,10 81:8,12 83:13,17 92:22 94:18,19 95:1 96:3,7	separately 14:9	short 20:14
rule 74:22	school 7:25 11:19 12:1	series 5:12,19	shortly 64:19
run 7:24 19:2 20:14 33:7 74:1,15,18,23 77:3	Schuman 40:22	served 6:18,24	show 15:10,24 51:9 80:15
rundown 9:23 24:17	scope 92:11	service 17:23 24:13,18 41:12 66:1,17 68:16 69:8 89:17 90:23,24	shower 28:20,21
running 19:13 25:11 27:12 30:4 34:13 42:21 88:10	screaming 60:24 89:18	set 66:20 73:25	showing 6:22 58:10
runs 17:23 78:22	screen 73:24 74:4 92:14	shaft 26:23 31:13 33:13 55:7 90:3	shown 80:24
Ryan 17:15,21,23 18:8 21:4 46:13,20 50:14,	screens 74:2,4	shaft-propulsion 76:6	shows 34:13 77:5
			shut 28:11 33:1 86:7 87:25 88:3

MICHAEL PORT - 03/13/2019

i16

shutting 27:9,10 31:18 88:5	slip 42:12 67:14,24	spill 47:25 48:6	step 55:15
side 38:6,7,8,11 49:7 53:17	slips 42:14	split 26:15	Stepping 14:17
sign 47:23 96:7	smaller 10:7,8	spoke 47:8,10,16 48:17	stereo 85:17 87:2
signal 44:14	smell 56:23 57:11 62:22 79:13	spool 69:5	stick 20:16
signature 52:7	smoke 37:2,21 45:7	spot 54:12 69:25	sticking 70:19
signed 66:25 67:2 84:1	sold 10:11	spraying 70:4	stories 8:17
significance 94:7	solve 54:24	spring 91:20	story 71:1
significant 93:23	sort 12:16 13:23 15:6 18:1 19:24 21:14,19 23:3 24:12,16 29:1 33:1 35:3,8 37:21 46:15 48:4 51:9 52:23 53:1,2,6 54:15 58:25 67:21 73:19	stamped 81:13	stove 27:11 31:21,23 32:1, 2 88:11,14 93:2,5
significantly 37:4	sound 71:5	stanchions 26:14	strainer 43:23 73:5
signing 66:20 67:5,9	sounds 84:8	standard 41:21 42:24 43:6 45:8 48:4 68:11	strainers 72:3
similar 6:24 95:19	south 16:20	starboard 26:19 28:6 31:3 38:7, 8 49:7 53:16 75:22, 25 87:25	strangers 50:8
similarly 31:21 76:9	spare 86:13	starboard-side 56:13	straps 73:13
simple 87:8	speaking 9:1,2	start 28:10 88:1	strike 85:23
simply 63:20	specific 23:2 65:16 67:8 77:7, 8	started 37:3,16 45:20,22 47:2 57:3 64:18	strip 53:21
sit 51:14 63:9 87:10	Speculation 95:5	starts 74:7	structure 25:19
sitting 42:20,24 46:2 65:12 69:24 70:18 79:23	spend 7:11 18:19,20 19:10	stated 89:15	stuck 27:24
Six-pack 11:3	spent 20:11 34:25 35:3,9 91:3	statement 47:12,13,14,15	stuff 13:16,20,21
size 42:10 52:3 61:23 95:19		statements 23:21	style 95:19
skim 53:2		stay 72:25 90:19	submerged 70:20
			submit 11:9

MICHAEL PORT - 03/13/2019

i17

subpoena 6:17,24	system 20:16,17 42:23 43:11 45:16,17 69:3 74:11 76:6 79:5	term 19:24 73:23	44:17 45:24 46:3,6 50:18 64:15 65:8,9 66:21,25 67:10 69:17 72:2,21 77:12 83:20 85:6 86:7 89:8 91:5
substantial 28:5	systems 11:22,25 20:11,16 43:20 73:16,25 74:4 91:6,8	terms 52:11	timeframe 29:3
suggest 37:23		test 6:9 11:8 16:23 38:23	timeline 64:21
sulphur 56:23 79:13	T	testified 5:5 68:10 75:18	timer 45:13
summarized 52:23		testimony 80:13	times 12:21 21:3 30:17 43:10 47:19 48:18 55:4 76:25 79:18
summer 21:22 22:7,19 23:15	T-BERTH 67:14	text 36:10	timing 36:15,16
sunk 70:17	T-HEAD 37:12 42:5,11,16,17, 20 67:18	theater 8:7	title 7:23
superstructure 25:24,25 26:1	T-HEADS 42:6	thing 14:4 21:21 47:5 48:7 70:5 72:20 85:15 88:13,15	today 5:11,12 7:18 9:10 65:12 79:23
supervised 33:20	taking 72:24 91:22	things 5:12 12:17 13:15 14:19,23 20:9 24:3 28:14,25 39:20,23 40:18 45:3 53:5,13 54:9 60:16 67:5 72:10 78:12 85:16,19 93:3	today's 12:17 64:2
supplemental 82:20	talk 9:7,10 14:8,9 34:5 46:15,16 53:6 93:13	thought 27:2 31:10 47:3	told 37:20 48:24 49:17 55:2 69:15
supplied 68:25	talked 12:21 17:11 46:18, 19,20,22,25 49:21,22 50:5,11 53:15 71:10 75:22 86:5	thousand 82:23	Tom 17:17,24 18:2 20:12, 15,20,21 21:12 51:6 53:10 55:10
support 81:4	talking 9:9,17 94:2	three-and-a-half 45:23	top 25:19,21 34:21 58:1 70:19
supporting 81:5	tanks 54:9 86:14	tie-down 73:13	torture 6:9
suppose 18:12 20:23 21:1 23:20 34:13 47:6 63:22 67:7	tape 47:13,15	tied 70:1	total 12:14 36:13 80:25
supposed 20:22 31:11 73:12	technically 67:6	tight 72:9	totals 80:19
surprising 26:25	tells 92:8	time 6:9,11,12 7:11 15:19 18:20 21:5,18 24:14, 20 28:3 33:5 34:25 35:3,9,20 40:13 41:18,25 43:13,15	touch 15:8 73:24
swim 27:15,19,21 32:5	tender 73:13 80:23 81:3 83:4		tough 60:19
switch 45:5	tenders 10:8		
switching 45:4			
sworn 5:5			

MICHAEL PORT - 03/13/2019

118

towing 11:18	type 18:3,22 21:21	unusual 23:3	Virginia 21:23 24:5 29:25 57:14 59:3
traded 10:11	types 9:24 13:14 18:2 24:17	upgrade 11:9 15:20 77:22 95:9	<hr/> W <hr/>
traditional 20:18	typical 76:6 90:6	upside 58:15	wait 5:20
training 9:1 10:23,24	typically 18:6 42:17 43:15	usage 65:13	waited 30:21
trial 16:24,25 17:3,4 19:25 20:1	<hr/> U <hr/>	<hr/> V <hr/>	waiting 26:10
trip 16:18,19 21:23 23:8, 15,18 24:4,8 29:25 31:15 57:13 58:9,23 59:3 64:17 65:11,14, 17,20 74:9	U.S. 11:2,17	valuable 50:9	walking 37:1
trips 22:8 31:4,19	Uh-huh 5:22 13:11 20:4,25 22:17 25:7,14,23 29:5 36:9 37:8 46:10, 24 52:25 53:12 57:2, 6 60:13 61:16,25 75:24	vendor 66:1	wanted 8:20 11:11,14 12:6 17:7 18:7 53:1 57:20 59:8 60:14,21,22 81:21 91:11
trouble 6:2	uh-huhs 5:24	vendors 40:14	warm 43:15
troubleshoot 12:7	unclear 63:18	verbally 5:23	warnings 47:24
true 78:25	understand 6:2,5 9:11 10:9 78:9 89:23 94:9	vessel 10:3,7 11:11 16:2 19:17 65:14,23 66:2, 7,19,23 67:14 68:12 69:7 70:22 72:16 73:22 82:3 83:4,21, 23 84:10 85:5 86:6,8, 11 87:2,16,17 89:1,3, 5,25 90:12,13 91:9 94:21	warranted 66:16
Tulane 8:2,6,10	understanding 45:1 55:14 56:6 61:14 69:10 76:11 77:2 78:22 87:10	vessels 15:11 16:15	warranty 67:10 77:9 85:10,13, 21,22,24
turn 15:6 43:7,19 58:4 88:24 93:3,7	understood 69:16	VHF 43:4 44:4,7,8 88:20 89:6	warranty-related 77:4
turned 31:22 78:23 79:14	underway 12:7 28:10 73:19 87:17,19 88:1,10,14 89:2,6,7,9	video 61:5 62:5	wash 40:7
turning 9:6 27:8,11 42:22 46:14 88:11	underwriter 81:5	videos 38:3,14 61:18	washed 41:5,10
twin 10:5	University 8:2,5	view 73:22	washes 40:19,20
two-and-a-half 36:22	unknown 50:17	Viking 95:13	washing 41:8
two-week 22:15 23:1,8 58:23 64:17 65:14 74:9			watching 47:6
			water 19:10 25:9 26:2 35:23 46:9 56:24

MICHAEL PORT - 03/13/2019

i19

67:20 70:5,7,8,16,19, 23,24 72:4	windows 38:1 53:17 54:3,4 56:14	X	
Watercraft 81:16	windshield 26:1	XL 82:12,16	
waves 67:15 68:3	winter 16:20	XL-01320133 80:16	
wear 19:17	wiring 62:23	XL-2601 81:14	
week 22:11 58:9	woman 7:9,12 71:8,9,15	Y	
week-and-a-half 21:25 22:1	word 13:23	yacht 5:10 13:7 15:9 16:9, 12 17:12 65:25 66:7 84:5,25 86:1,15,21 87:5 90:21 91:23	
weekend 11:20,21,24 22:10 35:11	work 5:24 12:3,8 13:21 17:25 18:2,3,9,11,14 24:12 33:11,14,16,17 50:23 52:23 54:4,15, 22 58:3 60:8 61:24 65:23 66:7 75:19 85:22,24 89:24	year 15:17 16:1,19 40:19 43:16	
weekly 40:19 41:5,7,8	worked 66:14	years 7:13 11:4 23:22 40:19 71:16	
weeks 22:22 36:1 39:17,20 40:9 41:10	working 25:16 30:9,16 39:24 47:20 53:23 73:17 90:20 92:5	York 8:4	
weight 88:2	works 33:18	young 8:16	
welds 26:15 30:23	would've 89:18	young'in 8:15	
well-protected 67:18 68:9	write 28:25	Youtube 62:5,8,9	
wet-cell 25:9	writing 72:14		
whereabouts 37:22	written 47:13 60:18		
whistles 17:6	wrong 25:2 92:18,19,21		
white 15:14 17:11 75:6	wrote 61:2		
wife 7:23 9:3 35:2 39:16 71:10,13 91:3			
wind 37:10 67:15 68:2			
window 53:14 56:13			

ADDITIONAL TERMS AND CONDITIONS

It is further understood and agreed:

The order on the reverse said hereof is subject to the following terms and conditions, all of which have been mutually agreed upon:

1. All titles to the equipment listed on page 1 of this Agreement shall be retained by the Seller until the purchase price has been paid in cash or a financing arrangement has been executed and accepted by a bank or some other lending institution. Upon full payment, Seller shall transfer title to the equipment to Buyer even though the actual delivery date may be later. Prior to delivery date, Buyer must execute a retail installment contract or some other type of security agreement prescribed by law if this sale is not a cash transaction.
2. Buyer agrees to assume and pay, unless prohibited by law, any and all taxes other than income taxes incidental to the purchase documented in this agreement. The purchase price stated on page 1 of this document does not include any taxes assessed by any governmental agency prior to or at the time of delivery on the sale of this boat unless expressly stated otherwise.
3. The manufacturer has the right to make any model, design, parts, or accessory changes it sees fit. These changes shall not affect the equipment ordered by the Agreement, nor may Buyer require Seller or manufacturer to include these changes in his/her order.
4. Seller shall not be liable for any loss or damages caused by delays created by the manufacturer, accident, strike, fire, or any other cause beyond Seller's control.
5. Buyer shall deliver to the Seller's premises his/her used boat (hereinafter called "trade-in") along with its title if such boat is to be traded in as a partial payment toward the purchase price. Buyer warrants that the trade-in is his/her property and that the trade-in is free and clear of all liens and encumbrances other than those noted on page 1 of this agreement. Buyer warrants that all taxes levied on the trade-in have been paid in full. If it comes to the Seller's attention that there is a lien or claim on the trade-in which is not disclosed on page 1 of this Agreement, Seller shall have the option of: A) paying the claim and seeking immediate reimbursement from Buyer, or B) Seller may add the amount of the claim to the purchase price established on page 1 of this Agreement and the new purchase price will be incorporated as if originally stated in this Agreement.
6. If the trade-in is not licensed and registered in the state where this Agreement is executed, Buyer shall immediately register and license the trade-in in said state. If Seller incurs any expenses connected with the licensing and registration of the trade-in, Seller may pay such expenses and be reimbursed therefore by Buyer or increase the purchase price by the amount of such expense.
7. Seller shall retain the right to make a reappraisal of the trade-in if it is not delivered to Seller at the time of the initial appraisal. A reappraisal shall be made by Seller if there appears to be any change in the trade-in's general physical condition or its furnishings and accessories. In the event the reappraisal differs from the original appraisal, the trade-in allowance shall be based on the reappraisal.
8. This agreement shall be governed by the Uniform Commercial Code as adopted in the state in which this agreement is executed. If the Buyer fails or refuses to complete the purchase documented by this Agreement within thirty (30) days of the execution of this Agreement or an agreed extension date, the cash deposit put down by the Buyer will be used to compensate Seller for any losses, expenses, or attorney fees incurred by Seller in connection with Buyer's failure to complete the purchase documented in this Agreement. If Buyer has delivered to Seller a trade-in and the purchase has not been completed within the time period described above, Buyer authorizes Seller to sell the trade-in at a private or public auction and deduct from the proceeds delivered to Buyer an amount equivalent to the losses and expenses incurred by Seller in connection with Buyer's failure to complete the purchase documented in the Agreement.
9. Warranties. EXCEPT TO THE EXTENT REQUIRED BY STATE LAW, SELLER EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. All warranties covering the equipment referenced on page 1 of the Agreement, if any, are made by this manufacturer. A copy of any applicable manufacturer's warranty shall be delivered by Seller to Buyer.
10. Buyer states that he/she has inspected and examined the equipment which is the subject of this Agreement and determined that the equipment is of satisfactory quality and is suitable for the purpose for which it is purchased.
11. The following provisions shall be incorporated in the Agreement if Seller accepts Buyer's trade-in and allows Buyer a trade-in allowance:
 - A. Buyer certifies that the trade-in belongs exclusively to him/her. In addition, Buyer warrants that he/she has authority to transfer title to the trade-in to Seller and that there are no liens or encumbrances on the trade-in other than those disclosed on page 1 of this Agreement.
 - B. Buyer certifies that the trade-in is seaworthy and that its accessories and equipment are in good working order. Buyer also certifies that the trade-in's engine block, manifolds and cylinder head are not cracked or otherwise defective.
 - C. The trade-in shall become Seller's property when this Agreement is fully executed.
 - D. On the date this Agreement is executed, Buyer shall deliver to Seller all instruments of title to the trade-in along with a proper bill of sale or any other instrument necessary to transfer proper title of the trade-in to Seller.
 - E. If within thirty (30) days of the date when Buyer delivers the trade-in to Seller, Seller discovers that the trade-in or any of its accessories and equipment are in a defective or an unacceptable condition, Seller shall have the option of: 1) rescinding this Agreement, or 2) making all repairs necessary to put the trade-in in marketable condition and billing Buyer directly or adding the costs to the purchase price set forth on page 1 of this Agreement.
12. Brokered or used boats are sold strictly on an "as is" basis. If this transaction involves a used boat, Buyer states that he/she has inspected and examined the used boat as well as its equipment and accessories and found them in satisfactory condition or good working order.

THIS DOCUMENT CONTAINS THE ENTIRE AGREEMENT BETWEEN ITS PARTIES. NO OTHER REPRESENTATIONS, INDUCEMENTS OR PROMISES (WRITTEN OR VERBAL) HAVE BEEN MADE WHICH ARE NOT SET FORTH IN THIS AGREEMENT.